
AUDIT REPORT



PHILADELPHIA HOUSING AUTHORITY CONTRACTING AND PURCHASING ACTIVITY PHILADELPHIA, PENNSYLVANIA

2003-PH-1002

JANUARY 27, 2003

OFFICE OF AUDIT, MID-ATLANTIC
PHILADELPHIA, PENNSYLVANIA



Issue Date	January 27, 2003
Audit Case Number	2003-PH-1002

TO: Malinda Roberts, Director, Office of Public Housing, Pennsylvania
State Office, 3APH

Daniel G. Temme

FROM: Daniel G. Temme, Regional Inspector General for Audit, Mid-Atlantic, 3AGA

SUBJECT: Philadelphia Housing Authority Procurement

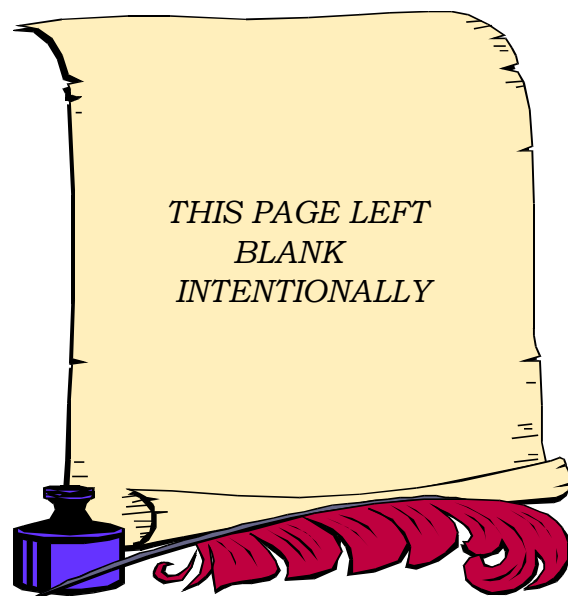
We completed an audit of the contracting and purchasing activities of the Philadelphia Housing Authority (Authority).

Our report contains four findings with recommendations requiring action by your office. Our audit found that the Authority is not always complying with various solicitation, contract modification, and contract award requirements. In addition, the Authority needs to improve its annual procurement planning process to determine which purchases should be under contract.

We want to acknowledge the assistance provided by various Authority Departments and personnel, including the Information System Management (ISM), Account Payable, and Contracting Departments, as well as the Authority's contracting officer and the General Manager of Contract Administration. Their assistance helped formulate the recommendations provided in this report.

In accordance with HUD Handbook 2000.06 REV-3, within 60 days please provide us, for each recommendation without a management decision, a status report on: (1) the corrective action taken; (2) the proposed corrective action and the date to be completed; or (3) why action is considered unnecessary. Additional status reports are required at 90 days and 120 days after report issuance for any recommendation without a management decision. Also, please furnish us copies of any correspondence or directives issued because of the audit.

Should you or your staff have any questions, please contact John Buck, Assistant Regional Inspector General for Audit at (215) 656-3401, Ext. 3486.



Executive Summary

We audited the Philadelphia Housing Authority's contracting and purchasing activities. The purpose of the audit was to determine if the Authority properly procured goods and services and disbursed funds in accordance with Federal purchasing requirements and its own procurement policies. The contracts, contract modifications, and small purchase requisitions reviewed were mostly awarded between April 1998 and December 2000. When appropriate, we extended the review to include other periods.

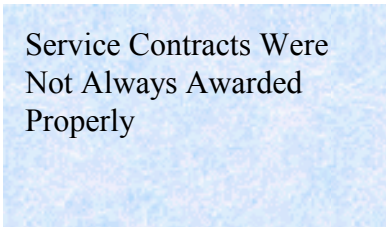
To accomplish our audit objectives, we reviewed:

- 61 contracts awarded to 54 vendors valued at \$53.5 million (Appendix B).
- 87 modifications to 26 contracts valued at \$8 million (Appendix C).
- Small non-contract purchases with 28 vendors valued at \$20.1 million.
- 464 payments to 53 vendors valued at \$32.4 million.

Our audit showed for the most part the Authority was soliciting, awarding, and administering construction contracts in accordance with Federal procurement requirements. We reviewed 22 construction contracts valued at \$15.3 million and found that the Authority generally followed proper procedures and ensured expenditures were reasonable and necessary. In addition, during our audit the Authority initiated a number of actions to correct problems we identified in making overpayments to a number of its vendors.

However, aside from these successes, our audit showed the Authority did not always comply with Federal procurement requirements or its own procurement policy when awarding service contracts, processing and approving contract modifications, approving contract payments, and determining which purchases should be under contract. In addition, the Authority's split purchases to avoid competing contracts under the competitive award process and we questioned the reasonableness of some other costs. In part, these problems occurred because the Authority did not adequately plan for its contracting needs and in an effort to keep operations running smoothly it sometimes ignored established procurement regulations.

The results of our review are summarized below, and detailed in the Finding section of this report.



Service Contracts Were Not Always Awarded Properly

The Authority did not always comply with Federal purchasing requirements or its own procurement policy in awarding service contracts. We identified at least one major deficiency in 12 of the 37 service contracts reviewed (\$2.3 million of \$37 million reviewed). Specifically, we found contracting officials did not: (1) always advertise solicitations adequately, (2) develop required cost

estimates, (3) issue written amendments to all bidders when changes were made after the due date for proposals and, (4) adequately evaluate options as part of the total contract award. These problems occurred because the Authority did not adequately plan its contracting needs and often disregarded procurement regulations when awarding service contracts. Therefore, the Authority had no assurance it paid reasonable prices or received the best value for the services it purchased under these contracts.

Contract Modifications
Were Not Always
Awarded Properly

The Authority did not always follow procurement regulations when awarding contract modifications. Specifically, our review of 87 modifications valued at \$8 million on 26 contracts showed the Authority: (1) issued contract modifications valued at \$1.7 million that should have been issued as new procurements; (2) issued \$2.2 million of contract modifications without preparing cost estimates to determine if costs were reasonable; and, (3) permitted contractors to perform and complete work totaling \$320,318 prior to obtaining needed contract modifications. Contracting personnel were aware of Federal and Authority procurement requirements and policies but could not adequately explain why they didn't follow them. However, they did state the requirements sometimes were not followed due to the urgent need for the service and that personnel may have misplaced some of the cost estimates. Consequently, the Authority cannot be sure that it paid reasonable prices or received the best value for work performed on these modifications.

Authority Split Purchases
to Avoid the Competitive
Award Process

We found the Authority frequently split purchases from vendors to avoid obtaining the products and services through the competitive award process. We reviewed small purchases for 28 vendors that received \$20.1 million during our audit period, and found the Authority frequently split purchases for 15 of the 28 vendors. Since the Authority did not adequately plan its contracting needs, it divided purchases to justify using small purchase procedures (\$10,000 limit on purchases) to obtain the commodities it needed to keep operations running smoothly. These purchases probably could have been acquired more economically under a competitive award process.

Authority Took Corrective Actions To Improve Its Vendor Payment Process

The Authority took a number of actions that should improve its vendor payment process. During our audit, responsible officials implemented new computer software to improve control over supply purchases, improved management of payment files and increased the level of supervisory oversight. These measures were needed because we found the Authority sometimes overpaid its vendors and could not adequately support all vendor payments. Of the 464 payments totaling \$32.3 million we reviewed for 53 vendors, we found the Authority overpaid eleven vendors \$128,792, and could not adequately support payments to seven vendors totaling \$250,892. Officials also paid vendors \$16,968 in other costs that were not necessary and reasonable. Officials acknowledged they mistakenly overpaid vendors and immediately recovered \$67,358 of the \$128,792 during the audit. The Authority now needs to formalize its new procedures by revising its written procurement policy and provide additional training to staff to ensure the payment problems do not redevelop.

Recommendations

We made recommendations that require the Authority to: (1) reimburse the Program from non-Federal funds, \$394,680 of ineligible costs, of which it should recover \$61,434 of remaining overpayments from vendors; (2) provide documentation to support vendor payments totaling \$250,892 or reimburse the program the unsupported amount from non-Federal funds (3) develop an annual procurement plan; (4) revise its policies and procedures to ensure procurement requirements are enforced and, (5) provide staff working in procurement with additional training on the requirements for contracts, contract modifications, small purchases, and vendor payments.

Authority Comments

We discussed the draft findings with the Authority personnel during the audit and at an exit conference with the Executive Director on October 9, 2002. On October 28, 2002, we provided copies of the draft report to the Executive Director and requested the Authority provide us written comments by November 12, 2002. On November 15, 2002 we received the Authority's written response in its entirety.

The Authority disagreed with many of the conclusions presented in the report. The Authority stated it properly procured and awarded contracts, properly issued modifications, and disagreed with our assessment of some

Evaluation of Authority
Comments

questioned costs. Basically, the Authority argued it did not have to comply with its own internal policy. However, the Authority did agree to improve its annual procurement planning and with our assessment that newly implemented procedures in its contract administration will minimize future overpayments to vendors.

We considered the Authority's comments in preparing the final report and included the full narrative portion of the Authority's response, without the attachments, as Appendix E. The Authority's complete response, including attachments, is available upon request.

As evidenced by the details presented in the report, the Authority did not always properly solicit, award, and/or modify vendor contracts according to Federal and HUD procurement requirements. Further, the Authority's argument that it did not have to comply with its own established procurement policy has no merit and raises serious questions as to whether the Authority is truly committed to improving its procurement process.

HUD's Procurement Handbook (7460.8 REV-1, Paragraph 3-4 B) specifically requires contracting officers to follow the Housing Authority's written procurement policy. The Authority's procurement policy (CPP-534) reinforces HUD requirements and contains sound management controls that if fully implemented, would provide integrity to the Authority's procurement process. Unless responsible officials at the Authority are required to enforce all pertinent Federal and HUD procurement requirements, which includes following their own established procurement policy, the purchasing and contracting problems and inefficiencies our audit identified will likely continue.

Table of Contents

Management Memorandum	i
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Executive Summary	iii
-------------------	-----

Introduction	1
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Findings

1. Service Contracts Were Not Always Properly Awarded	5
2. Contract Modifications Were Not Always Properly Awarded	15
3. The Authority Split Purchases to Avoid Competing Contracts Under the Competitive Award Process	27
4. The Authority Took Corrective Actions To Improve Its Vendor Payment Process	33

Management Controls	43
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Follow Up On Prior Audits	45
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Appendices

A. Schedule of Questioned Costs	47
B. Contract Sample Selection	49
C. Contract Modification Review	51

D. Contract Deficiencies	53
E. Auditee Comments	55
F. Distribution	87

Introduction

The Philadelphia Housing Authority was organized in 1937 under the laws of the Commonwealth of Pennsylvania to provide quality housing to the low and very low-income families of Philadelphia. The Authority is governed by a five member Board of Directors, with Ms. Joyce Wilkerson, Esquire, as the current Chairman of the Board. Since April 1998, Mr. Carl R. Greene has been the Authority's Executive Director. The Executive Office is located at 12 South 23rd Street, Philadelphia, Pennsylvania.

According to the Authority's Moving To Work Plan (as of October 1, 2001) the Authority served 11,718 conventional and scattered site households and 13,088 Section 8 households. The Authority receives significant financial assistance from HUD each year, with more than \$300 million received per year for FY 2000 and FY 2001. During our audit period of April 1, 1998 through December 31, 2000, the Authority awarded 1,842 contracts valued at \$152.9 million. Of this amount, the Authority awarded 1,206 construction contracts valued at \$46.8 million and 636 supply and service contracts valued at \$106.1 million. In addition, during the audit period, the Authority executed about 44,000 small non-contract purchases valued at \$44.7 million.

Audit Objectives

Our audit objectives were to determine whether the Authority:

- Solicited, awarded and administered contracts in accordance with Federal and the Authority's requirements.
- Made sure expenditures were reasonable and necessary.
- Made sure purchases were under contract when warranted.

Audit Scope and Methodology

In conducting our audit we:

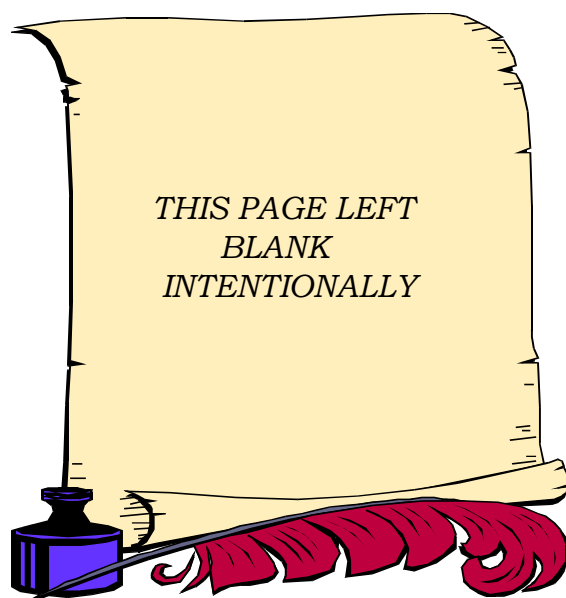
- Examined related Authority contracting and procurement policies, procedures, and records.
- Selected 61 construction, service and supply contracts and tested the contracts for compliance with procurement requirements. We non-statistically selected 17 contracts from our audit period during the survey phase from a contract list provided by the Authority's Contracting Department. After obtaining our computer

generated information request, we used audit software to select another 44 contracts based on three criteria: vendor dollar volume, funding source, and change order dollar amounts.

- Used auditing software to identify and select four older contracts awarded prior to our audit period. The older contracts were selected because we noted the Authority was still making payments on a number of older contracts that were awarded as far back as 1990, and we wanted to determine if contract modifications were appropriately used to extend the contracts.
- Used auditing software to non-statistically select 28 non-contracted vendors to determine if the Authority split purchases to obtain commodities/supplies instead of issuing competitive contracts. We selected 28 vendors based on dollar volume and purchase order activity during our audit period. We then reviewed the purchase activity for the heaviest month(s) for each of the 28 selected vendors.
- Interviewed personnel from the Authority's contracting, procurement, finance, accounting and management information system departments.
- Obtained computer downloads of the Authority's databases containing information on contracts, small non-contract purchases, and vendor payments.
- Performed extensive audit tests and analysis of downloaded data, using automated audit techniques.
- Inspected several scattered-site units and two developments for contract compliance.
- Reviewed related consultant reports.
- Visited three of the Authority's warehouse sites.
- Evaluated the Authority's prior and current computer systems.

Audit work was performed between March 2001 and August 2002 and covered the period April 1, 1998 through December 31, 2000. When appropriate, the review was extended to include other periods.

We conducted the audit in accordance with generally accepted government auditing standards.



Service Contracts Were Not Always Properly Awarded

The Authority did not always award service contracts in accordance with HUD or its own procurement procedures. We reviewed 37 service contracts valued at \$37 million and in 12 contracts valued at \$2.3 million we found one or more major deficiencies. Specifically, we found contracting officials did not:

- Advertise solicitations adequately to provide for full and open competition for six contracts valued at \$434,000.
- Issue written amendments to all bidders when changes were made after the due date for additional work on three contracts valued at \$210,965.
- Adequately evaluate contract options on four contracts valued at \$355,643 to ensure the total eventual cost of the entire contract was considered in the award process.
- Develop required cost estimates to ensure prices paid were reasonable for seven contracts valued at \$1.7 million.

These problems occurred because the Authority did not adequately plan its contracting needs and often disregarded procurement regulations when awarding and modifying service contracts. As a result, the Authority had no assurance it paid reasonable prices or received the best value for the services it purchased.

Solicitations Were Not Adequately Advertised

Contracting officials need to more effectively advertise the need for services to provide for full and open competition. From our sample of 37 service contracts, we determined that 27 should have been advertised. Of those 27, we found the Authority did not adequately advertise its needs for six contracts valued at \$434,000.

HUD's Procurement Handbook for Public and Indian Housing Authorities (7460.8 REV-1, Paragraph 3-13 B) requires Housing Authorities to adhere to time periods specified in their Procurement Policy when publicizing upcoming procurements. Further, the Authority's procurement policy sets certain guidelines on advertising contracts so that contracts are adequately competed and HUD's Procurement Handbook (7460.8 REV-1, Paragraph 3-4 B) specifically requires contracting officers to follow the

Housing Authority's written procurement policy. The Authority's policy states that for procurements other than small purchases:

- Public notice must be given on a given day and again seven calendar days later;
- Response to public notice should be honored to the maximum extent practical;
- A minimum of thirty days must be allowed for preparation and submission of bids or proposals unless a shorter time frame is required and approved by the Executive Director;
- If a shorter time frame is provided it must be for good business reasons and in that case the rationale for approval shall be included in the approval documentation; and,
- Notice of contract awards must be made available to the public.

For the six solicitations we questioned, the bids were open less than the required 30 days. The following chart displays information on the six solicitations.

Solicitation Number	Advertisement Date	Solicitation Close Date	Purpose of Solicitation
1791	6/1/98	6/15/98	Construction Legal Services
1801	6/23/98	7/6/98	Community Development Strategy Consultant
1915	7/9/98	7/20/98	Communication Services
1967	3/2/99	3/5/99	ISM Assessment Services
2072	7/12/99	7/19/99	Financial Consultant Services
2378	6/16/00	6/26/00	Graphic Design & Public Information Services

We also found competition was limited for several of the six solicitations. For example, only one bid was received for three of the six solicitations. On solicitation number 1967 perspective bidders had only three days to prepare and submit a bid. Also, on this solicitation, contracting officials erroneously listed the name of a contractor in the work scope

section of the solicitation that was distributed to all potential bidders. The contractor listed in the solicitation was the only one that bid on the contract. Officials told us this mistake occurred because they used an earlier contract with this vendor to draft up the work scope of this solicitation. We believe the inclusion of the one bidder in the solicitation discouraged other potential bidders from submitting a proposal on the solicitation.

The contracting officer could not explain why the six solicitations were not adequately advertised. For one solicitation, he believed the local newspaper failed to run a second advertisement. In regard to the requirement to allow thirty days for preparation and submission of bids, the contracting officer stated that sometimes there has to be a shorter bid time due to the immediate need for the good or service. For these solicitations, he tries to obtain sufficient competition by mailing solicitations to several potential bidders. However, we found no rationale, approval, or justification for the reduced timeframes in the contract files. Additionally, in our opinion the contracting officer is providing selected bidders with an unfair advantage by reducing the solicitation period and mailing solicitations only to selected bidders.

The overall lack of adequate advertising and reduced time the bidders were given to prepare and submit bids on these six contracts limited competition, and may not have provided the Authority with the most competitive price.

Scope of Work
Improperly Modified
After Contract Solicitation

The contracting officer made additions to the scope of work totaling \$210,965 on three contracts before the contract award but after the solicitations had closed and proposals had been received. The following table summarizes the information related to these three contracts.

Contract Number	Original Value	Additional Work	Percentage Increase	Purpose of Solicitation
1965	\$234,060	\$55,965	24%	Security Consultant
2378	\$68,000	\$55,000	81%	Public Information Services
2072	\$100,000	\$100,000	100%	Financial Consultant Services

According to HUD's Procurement Handbook, if changes are required to the solicitation after issuance but before proposals are due, a written amendment must be issued to all potential offerors who were sent the original solicitation. If a change is needed after the due date for proposals, the Authority shall issue a written amendment to all offerors. If the change is so substantial that it is essentially for a new requirement, the solicitation shall be canceled and a new solicitation issued. In our opinion, the contracting officer misinterpreted HUD's Procurement Handbook resulting in the Authority awarding \$210,965 non-competitively to these three firms.

The contracting officer told us he believed he complied with all requirements with the solicitation of these three contracts, and adding the additional work was within his authority because the dollar amounts were relatively small. Further, since two of these contracts received only one bid, no amendments were needed. We disagree with the contracting officer's assessment because HUD's guidance does not provide the contracting officer the authority to make changes without required amendments regardless of dollar value or number of bids received.

Details related to the three questioned contracts follow.

Security Contract. An additional \$55,965 was added to contract number 1965 for security site work that was not included in the original solicitation's scope of work. The contracting officer stated the additional work for this contract was added by an amendment to the solicitation. However, he could not provide a copy of a written amendment that supported this position and demonstrated all bidders had the same opportunity to bid on the additional work.

Public Information Service Contract. Procurement personnel added work to contract number 2378 valued at \$55,000 after the solicitation was closed. Officials justified this additional work with a memorandum stating a staff person from the Executive Office requested the contracting officer award the additional work to the firm. No written amendments were made to allow other bidders to bid on this work. The additional work scope was verbally defined to include plans and materials to effectively communicate the Authority's goals and accomplishments to identify demographic groups and the greater community.

Financial Consultant Contract. Procurement personnel added additional work totaling \$100,000 as an option to contract number 2072. Officials provided us with a memorandum that stated they determined it to be in the Authority's best interest to award a one-year contract not to exceed \$100,000 with an option period for an additional cost of \$100,000. No written amendments were made to allow other bidders to bid on this work.

Contract Options Were
Not Adequately Evaluated

Contracting officials did not adequately evaluate options as part of the contract award process to ensure that the total eventual cost of the entire contract was considered and the Board of Commissioners and HUD approval was obtained when required. We found four service contracts valued at \$714,543 (including options of \$355,643) were not submitted to HUD or the Board of Commissioners for required approvals. The following table summarizes the information related to these four contracts.

Contract Number	Bids Submitted	Base Contract	Option Amount	Total Contract
1791	1	\$100,000	\$100,000	\$200,000
2072	1	\$100,000	\$100,000	\$200,000
2145	1	\$ 98,900	\$ 92,143	\$191,043
2378	1	\$ 60,000	\$ 63,500	\$123,500

Since contract options establish a long-term relationship with a single supplier, they should be used with caution and should not be used unless there is a clear and obvious reason. Therefore, options should be evaluated as part of the contract award process taking into account the total eventual cost of the entire contract. HUD's Procurement Handbook and Authority's Policy requires prior HUD approval for any procurement that will exceed the simplified acquisition threshold of \$100,000 when only one bid or proposal is received in response to a solicitation. The Authority's policy requires Board approval for any procurement that will exceed the simplified acquisition threshold of \$100,000 regardless of the number of bids or proposals received in response to a solicitation.

The options awarded for the four contracts caused the entire value for each contract to exceed the simplified acquisition threshold of \$100,000. As such, required approvals from

HUD or the Board of Commissioners should have been obtained but were not.

Contracting officials believed it was not necessary to obtain the Board of Commissioners or HUD's prior approval on these contracts. The contracting officer stated that information is provided to the Board of Commissioners for every contract award and the contracts were handled properly. We disagree with this assessment because: (1) only one bid was received; (2) the simplified acquisition threshold of \$100,000 was exceeded; and, (3) required approvals were not obtained from HUD or the Board of Commissioners.

Required Cost Estimates
Were Not Developed

Contracting officials did not develop cost estimates for seven solicitations valued at \$1.7 million. In addition, we could not determine when the cost estimate was actually prepared for four solicitations valued at \$482,825, since no date was shown on the solicitation. Contracting officials could not adequately explain why the solicitations did not have estimates properly documented in the contract file.

Federal regulations (24 CFR 85.36 (f)(1)) require contracting officials to perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent cost estimates before receiving bids or proposals. A cost analysis is especially important to determine the reasonableness of the proposed contract price when adequate price competition is lacking such as for sole source procurements. HUD's Procurement Handbook also requires that an independent cost estimate be completed before soliciting bids or proposals. The Authority's internal procurement policy contains similar requirements.

Cost estimates are essential to help managers determine the method of procurement to be used and are also an integral part of the Authority's planning and budgeting processes. Failure to develop cost estimates can limit the Authority's ability to properly plan. However, since these contracts were competitively bid, we did not classify these costs as unsupported because the competitive bidding process provides some assurance that prices were reasonable. Nevertheless, without an estimate for comparison to the bids

received there is little assurance that proposals submitted by bidders are reasonable.

Problems identified in this finding occurred because the Authority did not adequately plan its contracting needs, and often disregarded or misinterpreted procurement regulations when awarding and modifying service contracts. The contracting officer could not provide a copy of the Authority's procurement plan or any other evidence it had implemented an annual planning process that is required under its Procurement Policy. We believe the Authority's lack of procurement planning contributed significantly to the conditions identified in this finding. Since planning was not evident, the Authority at times disregarded or did not enforce procurement regulations to compensate for poor planning.

Auditee Comments

The Authority disagreed with our conclusions and did not see any need to improve its procurement practices, procedures or training. The Authority stated that it properly advertised the contracts, properly modified the questioned solicitations, and evaluated the options in accordance with HUD and its own policy, and properly estimated contract costs.

More specifically, the Authority stated the 30-day advertising requirement is an internal policy that it is not required to follow, and modifying the scope of work for some contracts was justified because the additional work was for small dollar amounts and only a few competitors existed. Further, the Authority stated it evaluated options properly, adding that its new revised policy approved by HUD on September 5, 2002 specifies prior Board approval is only necessary if the base contract or the option exceeds \$100,000. Lastly, the Authority stated it properly estimated contract costs.

OIG Evaluation of Auditee Comments

We disagree with the Authority's response and reiterate our position that the Authority needs to improve its procurement practices, procedures, and training. The evidence presented in the finding clearly demonstrates the Authority did not always adhere to Federal procurement regulations and its

own procurement policy in accordance with Chapter 3 of HUD Handbook 7460.8 REV-1. Specifically, the Authority did not properly advertise contracts, modify the work scope of some solicitations, evaluate options, and did not always properly estimate contract work prior to vendor proposal submission.

The Authority, in its response, provided no evidence to support its claim that they properly followed applicable procurement requirements in awarding service contracts. For example, the Authority's argument that they were not required to follow their own established procurement policy is without merit and only demonstrates their lack of understanding of procurement policy and the need for additional training. Further, the revised policy of September 5, 2002 the Authority makes reference to is not relevant because prior HUD approval is still required as specified in Chapters 6 and 11 of HUD Handbook 7460.8 Rev 1.

Recommendations

We recommend that you require the Authority to:

- 1A. Provide additional training to personnel in proper contract award procedures emphasizing the need to:
 - Advertise solicitations adequately to provide for full and open competition.
 - Develop required cost estimates to ensure proposals accepted are reasonable.
 - Issue written amendments to all bidders when changes are made after the due date for proposals.
 - Adequately evaluate options as part of the contract award to ensure that the total eventual cost of the entire contract is considered.
- 1B. Prepare and implement a plan to improve the Authority's procurement practices that will ensure: (1) a procurement planning process is performed that generates an annual procurement plan; (2) contracts are adequately advertised; (3) cost estimates are properly prepared; (4) contract amendments are issued properly; and (5) contract options are considered as part of the total contract cost when evaluating a contract award.

- 1C. Require the contracting officer to certify, in the future, that: (1) solicitations are adequately advertised; (2) cost estimates are properly prepared and used to establish the reasonableness of the proposal; (3) contract amendments are issued properly; and (4) options are adequately evaluated as part of the contract award process. The certification should be included in the contract package given to the Board for their review and approval, when applicable.



Contract Modifications Were Not Always Properly Awarded

The Authority did not always comply with Federal purchasing requirements or its own procurement policy when awarding contract modifications. We reviewed a total of 87 contract modifications valued at \$8 million on 26 contracts (Appendix C), and found contracting personnel permitted contractors to complete work totaling \$320,318 prior to obtaining needed written contract modifications. We also found the Authority awarded contract modifications totaling \$1.7 million that it should have issued as new procurements. In addition, the Authority awarded modifications valued at \$2.2 million without performing required cost estimates needed to determine whether costs were reasonable. Contracting personnel were aware of Federal and Authority procurement policies but could not adequately explain why they were not followed. However, officials did state the requirements sometimes were not followed due to the urgent need for the service and that some of the cost estimates may have been misplaced. As a result, the Authority had little assurance it paid reasonable prices or received the best value for the services it purchased on these modifications.

We reviewed a total of 87 modifications valued at \$8 million on 26 contracts. Our review consisted of a detailed review of 22 contracts with 46 contract modifications awarded from 1998 to 2001 from our original contract sample (61) and a more limited review of four older contracts with 41 modifications awarded from 1992 to 2000. The 46 modifications from the 22 contracts totaled \$3.4 million and the 41 modifications from the four older contracts totaled \$4.6 million.

Our detailed review of the 46 contract modifications for 22 contracts from our original contract sample showed the Authority:

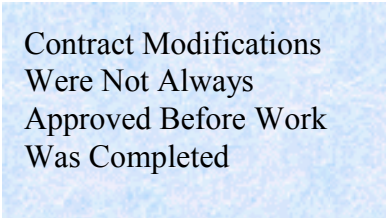
- Allowed contractors to complete work totaling \$126,273 on three contracts before recognizing contract modifications were necessary.
- Awarded ten modifications for additional work totaling \$386,296 that it should have awarded as new procurements under the competitive award process.
- Awarded twenty-seven modifications totaling \$2.2 million without first preparing required cost estimates.
- Prepared cost estimates for three modifications totaling \$174,920 after the proposals were received.

In addition to our original contract sample, we performed a more limited review on four older contracts because we noticed the Authority continued to award a significant number of contract modifications with high dollar values to these contracts over many years. These contracts included three legal services contracts and one security contract awarded from 1990 to 1996. The Authority

Finding 2

issued 41 modifications totaling \$4.6 million on these contracts from 1992 to 2000. We reviewed the three legal contracts and their modifications to determine if the Authority should have awarded the additional work as new procurements under the competitive award process. We reviewed the security contract to determine if the Authority should have awarded the additional work as a new procurement, and if the vendor performed the additional work before the Authority issued the required modifications. We did not review any cost estimates on modifications to these four contracts. Our review of the 41 modifications to these four contracts showed the Authority should have issued new procurements on modifications valued at \$1.3 million. In addition, we found the vendor performed work totaling \$194,045 on the security contract before the Authority issued the required contract modifications.

Detailed discussions of the results of our review follow.



Contract Modifications Were Not Always Approved Before Work Was Completed

Contracting officials did not properly approve contract modifications before the vendors completed work totaling \$320,318 on four contracts. In this regard, we found the Authority:

- Allowed the vendor to complete work totaling \$194,045 on one contract before it issued the required contract modifications. Several of the modifications were not issued for up to ten months after the vendor had completed the work.
- Paid one vendor for work totaling \$45,191 even though a contract modification was never approved to cover the additional work the vendor performed.
- Allowed vendors under two separate contracts to perform additional work totaling \$81,082 without approved contract modifications. Contracting officials issued the modifications only after they realized the vendors had completed and billed the Authority for additional work that was not covered under the contract's funding authorization. The officials felt compelled to modify the contracts so they could pay the vendors.

HUD Form 5370-C is a mandatory document for all non-construction contracts. Basically, services are not to be furnished without the prior written consent of the Housing Authority when a contractor will charge an additional cost or fee. The Authority's procurement policy (CPP-534) reinforces HUD's requirement and HUD's Procurement Handbook

(7460.8 REV-1, Paragraph 3-4 B) requires contracting officers to follow the Housing Authority's written procurement policy. In this regard the Authority established the following written procurement policy:

- Only the contracting officer is empowered to execute contract modifications and all modifications must be in writing.
- Except in an emergency, endangering life or property, no change shall be made by a contractor or anyone else without prior written authorization from the contracting officer.
- Board approval is required for any contract modification exceeding \$150,000.

By allowing work to be performed prior to obtaining written approval for these modifications, the Authority violated procurement regulations, forfeited the ability to properly evaluate the modifications, and lost opportunities to achieve substantial savings. The following examples by category illustrate problems we identified in the Authority's process of awarding contract modifications.

Modifications Approved Months After Vendors Completed Additional Work. Contracting officials awarded 23 modifications totaling at least \$1.3 million to Contract Number 1207. We found officials issued five of the modifications totaling \$194,045 to pay for additional work the vendors had already completed. For example, officials approved change order number 19 ten months after the vendor had completed all of the work. The change order was not approved until July 2000, but it covered work the vendor performed from as far back as September 1999. Contracting officials informed us that the vendor was permitted to complete the work prior to the issuance of the change orders because management believed there was an urgent need for the security work. We disagree the work was urgent since it was often for long-term security needs and therefore could not have been an immediate danger to life or property. Notwithstanding the perceived urgency, all modifications should be in writing and approved prior to the work being started.

Modification Never Approved. Contract Number 1915 was for public relations work. The Authority paid the vendor an additional \$45,191 without first obtaining the required approval of the contracting officer and issuing a change order detailing what services the vendor was to provide and at what cost. We also found the contract file was not organized or complete. In the file there were five documented change orders. Two of the five change orders were only partially completed and were not approved by the contracting officer. The contracting officer increased the total contract value to \$140,000 by approving three change orders. Although the contract (with approved change orders) was only approved for \$140,000, contracting officials allowed \$185,191 to be paid, \$45,191 in excess of the approved amount. The contracting officer stated the increase was based on contract negotiations that staff simply neglected to document.

Modification Approved After Contractors Billed For Services. In two other contracts, the Authority processed and approved modifications only after the contractor had billed the Authority for additional work that exceeded the available contract funds.

- The Authority issued Contract Number 1918 for public relations work. The vendor billed the Authority three times for additional work that exceeded available contract funds and in all three instances, the Authority approved a modification to cover the cost. Specifically, the Authority approved three modifications totaling \$137,096, of which it paid \$75,082 to the vendor for work it completed prior to the approval and award of the modifications. Responsible officials explained there was an urgent need for this public relations work because the Authority's media specialist was absent during a critical period. Notwithstanding the perceived urgency of this public relations work, all modifications should be in writing and approved prior to the work being started.
- Contract number 1792 was for consulting work. Contracting officials approved four change orders totaling \$134,200. The first change order was for \$6,000. The "contract change reason" documented in the file for this first modification simply said to increase contract amount to cover payment for

services rendered which exceed the contract amount. Contracting officials could not provide an explanation as to why they allowed the vendor to perform the work prior to obtaining an approved modification.

Authority officials told us they believed that they followed all required procedures on the modifications for these four contracts. They stated their procurement policy only requires that modifications be in writing and signed when issued and thus they could award them after vendors completed the additional work not under the original contract. Further, they asserted that even if they were to concede they violated their own procurement policy they were not required by HUD to follow their own policy, and may consider revising their procurement policy to agree with their actual practices. Finally, they stated because they had already received the services, they were in a better position to determine if full value was received and therefore worth the agreed upon price.

We disagree with the Authority's position that they followed all required procedures for issuing contract modifications. As we stated previously, HUD Form 5370-C is a mandatory document required all non-construction contracts that requires the Authority to provide prior written consent when the vendor will charge an additional cost or fee. Likewise, the Authority's own policy requires the contracting officer's prior written authorization unless there is an emergency that endangers life or property. HUD's Procurement Handbook not only requires the Authority to have a procurement policy but also specifies the contracting officer is responsible for ensuring all contracts awarded comply with the Housing Authority's written procurement policy.

The Authority likely lost opportunities to achieve substantial savings when it issued modifications after work had already been completed rather than ensuring the new work was competitively bid. Further, since the vendors completed the work before the Authority first prepared Federally mandated cost estimates, the Authority had no assurance it paid reasonable prices for the additional work vendors completed under these modifications.

Contract Modifications
Should Have Been Issued
As New Procurements

Our review showed the Authority should have issued additional work totaling \$1.7 million competitively under new contracts, rather than by issuing contract modifications to existing contracts. HUD's Procurement Handbook for Public and Indian Housing Authorities (Directive Number 7460.8) states that while it is occasionally necessary to modify a contract there are limitations on the use of change orders. Specific circumstances in which a change order may be issued should be described in the contract Change clause. Changes such as increasing the number of items being purchased or other types of new work are not considered within the scope of the contract or within the authority of the Changes clause.

The Authority's Procurement Policy also states that contract modifications for substantially new work beyond the scope of the original contract are not allowable. Most importantly, by awarding these modifications, the Authority forfeited the ability to compete the work and, therefore, forfeited opportunities to achieve substantial savings from market competition. The following examples illustrate additional services that should have been issued under a new contract.

Public Relations Contracts. Officials awarded three change orders totaling \$137,096 to contract number 1918 to continue the same public relations work under the original contract. Officials stated the modifications were issued to provide media communications services, copywriting and editing, and strategic communication planning and development. In total, the modifications increased the original contract price by \$59,425 or 230 percent.

The three change orders on contract number 1915 again only extended the contract to continue the same work. The three change orders totaling \$115,000 represent an increase of 460 percent over the original contract price of \$25,000. Responsible Authority officials could not provide adequate justification for any of the change orders they issued contrary to HUD guidelines.

Consulting Contract. Contract number 1792 is a consulting contract for the Assessment of the Resident Services Program. Officials awarded four change orders totaling \$134,200. This represented an increase of 134 percent over the original contract price of \$99,800. Some of the change orders on this contract only extended the

contract to continue the same work. Other change orders were for work unrelated to the scope of the contract. Responsible Authority officials could not provide adequate justification for any of the change orders they issued contrary to HUD guidelines.

Legal Services Contracts. The Authority issued 18 modifications to three legal service contracts it awarded more than 10 years ago. Although the modifications to these three legal services contracts increased the original contract values by \$3.2 million, the Authority did not compete any of the additional work.

The following information pertains to the three legal contracts reviewed.

Contract Number	Date of Award	Original Amount	Amount of Modifications	Adjusted Value	Percent Increase	Number of Modifications
353	11/21/90	\$150,000	\$2,228,762	\$2,378,762	1486%	11
378	5/23/91	\$100,000	\$175,000	\$275,000	175%	2
464	7/14/92	\$125,000	\$830,550	\$955,550	664%	5

A contract modification would be justified to continue an already active case since it would be unwise to change firms or lawyers in the midstream of trial proceedings. However, we determined the Authority added numerous new cases by modifying the existing contracts. By adding new cases, officials provided non-competitive work to existing contracts and bypassed the competitive process. We did not attempt to quantify the dollar value of the new cases or the legal services that were provided because the volume of the cases did not make such a review practical.

For example, we found contracting officials continued to add significant numbers of new cases to contract number 353. As the chart above shows, the Authority issued the contract for \$150,000 in November 1990, but issued eleven contract modifications valued at \$2.2 million over a ten-year period. This represents a 1,486-percent increase over the original value of the contract.

The Authority's contracting officer told us he did not evaluate modifications on legal contracts for compliance with procurement requirements. He believed since HUD's

Office of General Counsel approved the modifications, HUD also had reviewed it for procurement requirements. Although it was not clearly stated in HUD's letter approving the modifications, HUD Counsel only evaluates each modification for compliance with HUD's litigation requirements and not procurement regulations. Thus, it appears the Authority's General Counsel misinterpreted the approval letter he obtained from HUD. However, it remains the responsibility of the contracting officer to ensure the Authority complies with all procurement regulations on all contracts.

Security Contract. Contract number 1207 provides security coverage to a number of specified conventional sites plus the Executive Office. Contracting officials awarded the initial contract for \$3,274,440. Officials awarded 23 modifications to this contract to add additional security to numerous sites. Contracting officials told us they awarded the modifications because they believed additional site security was urgently needed. In our opinion, however, the urgency of these modifications was questionable since in several cases the modifications were for long-term security needs. Our review showed that 17 of these 23 modifications valued at more than \$1.3 million were contrary to HUD guidelines. Further, we found evidence that some of these modifications were split on the same day for the same services to ensure they individually fell below the \$150,000 threshold that would have required them to be submitted to the Board for approval. Collectively, these modifications totaled \$243,360.

Authority Did Not Prepare
Required Cost Estimates
for Most Contract
Modifications

Contracting officials often did not complete cost estimates required for contract modifications. Federal regulations (24 CFR 85.36(f)(1)) require contracting officials to perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis is especially important to determine the reasonableness of the proposed contract price when adequate price competition is lacking for contract modifications.

Of the 46 modifications we reviewed, we found cost estimates were not adequately performed for 30 modifications. For 27 modifications valued at \$2.2 million

no estimate was prepared and for three modifications valued at \$174,920 the Authority prepared estimates after it received the vendor's proposal. As a result, the Authority awarded modifications valued at nearly \$2.4 million without making sure costs associated with the changes were reasonable.

The contracting officer stated he was aware that estimates should be developed. He stated some estimates might have been misplaced and acknowledged some estimates were not prepared. However, he could not adequately explain the circumstances because the Authority no longer employs the supervisor who oversaw the contract modification process.

After we notified responsible officials of the problem, they took immediate action to determine if they had obtained reasonable value for the contract modifications. Officials hired an outside consultant who worked with the contracting officer to review the cost reasonableness of the modifications. The consultant subsequently issued a report with an opinion the Authority had in fact obtained reasonable value. We did not perform a detailed review of the consultant's work, but we did review their methodology and concluded it was sound. Thus, we believe there is reasonable assurance the consultant's conclusion has merit. However, the contracting officer should perform a thorough review of the consultant's work and certify to the results if he is satisfied with the conclusions. Further, to prevent this problem from reoccurring, the Authority needs to provide additional training to contracting personnel, emphasizing the need to prepare cost estimates on all future contract modifications.

Overall, contracting officials could not adequately explain why they did not follow proper procedures when awarding contract modifications. For the legal service modifications, we believe the Authority may have misinterpreted an approval obtained from HUD's Office of General Counsel. In other cases the Authority claimed the work was deemed to be urgent, but in our opinion the urgency was questionable and should have been anticipated. It appears the Authority awarded many of the contract modifications to help keep operations running smoothly in an effort to compensate for poor contract planning. The Authority's Procurement Policy states that the Executive Director shall ensure that

procurement requirements are subject to an annual review process to assure efficient and economical purchasing. However, the contracting officer could not provide us with a copy of the Authority's Procurement Plan or any other evidence to demonstrate the Authority has an annual planning process. We believe the Authority's poor procurement planning contributed significantly to its improper awards of contract modifications.

Auditee Comments

The Authority disagreed with the issues presented in the finding. Specifically, the Authority stated that nothing mandates a modification must be in writing prior to work commencing and being completed and as such HUD Form 5370-C was not part of any of these contracts. In addition, the Authority believes its actions were justified because the work was considered an emergency and Authority staff was out due to illness.

The Authority also disagreed that a number of the modifications should have been issued as new procurements. Lastly, the Authority claimed that the issue related to it not preparing required cost estimates for contract modifications should be deleted in its entirety from the report. They believed it should be deleted because an outside consultant they hired issued a report stating that value was obtained for the numerous change orders that did not have an estimate.

OIG Evaluation of Auditee Comments

We disagree with the Authority's position that they followed all required procedures for issuing contract modifications. We saw no evidence that any of the work done under these modifications was in response to an emergency that would endanger life or property. As stated in the finding, HUD Form 5370-C is a mandatory document for all non-construction contracts and it mandates prior written consent of the Housing Authority when the vendor charges an additional cost or fee. Likewise, the Authority's own policy requires the contracting officer's prior written authorization unless there is an emergency that endangers life or property.

As we presented in the report, the Authority provided no legitimate reasons that justified its use of contract

modifications to obtain millions of dollars of additional services rather than the competitive award process required under Federal procurement regulations. Further, the Authority is well aware that Federal regulations require cost estimates to be prepared for every procurement including contract modifications. The point that the Authority hired a consultant to justify the cost of this work after it had been completed and paid for does not negate the fact the Authority failed to comply with Federally mandated requirements. Further, it does not diminish the need for the Authority to comply with the requirement in the future and ensure its personnel perform cost estimates prior to awarding contract modifications.

Recommendations

We recommend that you require the Authority to:

- 2A. Provide documentation showing how the Authority will improve its cost estimation process for contract modifications and ensure that estimates are prepared for all modifications prior to contract award.
- 2B. Certify the results of the consultant's review of the cost estimates if they are satisfied that the conclusions are valid.
- 2C. Provide additional training to contracting personnel on contract modification procedures with emphasis on ensuring:
 - Contract modifications are approved prior to work performance.
 - New procurements are adequately considered in lieu of contract modifications.
 - Cost estimates are prepared and used to analyze cost reasonableness on all contract modifications.
- 2D. Repay \$320,318 to the program from non-Federal funds for failing to ensure that additional work was properly approved prior to tasking vendors to do the work unless the Authority can provide additional documentation to resolve the cited deficiencies.

- 2E. Revise internal policy to require the contracting officer to review and approve all modification to legal contracts for compliance with procurement requirements.
- 2F. Establish procedures requiring the contracting officer, or designee, to certify that each contract modification is necessary and reasonable.

The Authority Split Purchases to Avoid Competing Contracts Under the Competitive Award Process

We found the Authority frequently split purchases to vendors to avoid obtaining the goods and services through the competitive award process. Further, the Authority's use of small purchase procedures to make large purchases was not efficient and may not have provided the Authority with the most economical purchases of services, materials, supplies or other property. We determined that the Authority executed about 44,000 small non-contract purchases with over 1600 vendors valued at \$44.7 million from April 1998 through December 2000. We reviewed small purchase requisitions for 28 vendors that received \$20.1 million during our audit period and found the Authority frequently split purchases for 15 of the 28 vendors.

This occurred because the Authority did not adequately plan its contracting needs. When goods and services were needed, the Authority used its small purchase procedures to procure the products and services. However, since the State of Pennsylvania mandates a \$10,000 purchase threshold for making small purchases, purchasing officials often had to divide purchases to stay within the mandated threshold. Procurement personnel felt compelled to use the small purchase procedures to keep operations running smoothly. As a result, the Authority spent significant funds using small purchase procedures without determining whether this was the most economical method for these purchases. Also, Authority personnel had to spend excessive time and effort to process thousands of small purchase requisitions.

Large Purchases Were Improperly Split

The Authority frequently split large purchases when it obtained goods and services from 15 of 28 vendors we reviewed. We found a number of repetitive items were purchased under small purchase requisitions that the Authority should have purchased under contract. This was done to justify using the small purchase procedures which has a state mandated \$10,000 purchase threshold.

According to Federal Regulations (24 CFR 85.36) small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold currently set at \$100,000. The State of Pennsylvania has a much lower threshold currently set at \$10,000. The Authority is required to

comply with the \$10,000 state mandated threshold and has established its policy accordingly.

Using software, we identified 28 vendors in which the Authority frequently made small purchases. We then reviewed the month(s) with the heaviest purchasing activity for the 28 vendors to determine if the Authority was using the small purchase orders as a means to obtain large purchase items that it should have competitively awarded under contract. We found the Authority was splitting purchases for 15 of the 28 vendors to obtain service or commodities such as maintenance, office, and uniform supplies. Some examples follow.

Lumber. A purchasing official requisitioned \$18,625 of one-quarter inch plywood through six separate purchase orders on one given day with the same vendor. On this same day the official requisitioned another type of plywood through five additional purchase orders. These five purchase orders totaled \$22,669.

Tile. We found several examples where a number of purchase orders were issued on the same day to one vendor to purchase tile. The purchased goods were all sent to the same location. To illustrate:

Purchase Order	Date of Purchase	Amount of Purchase	Commodity Description
211833	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211835	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211836	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211837	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211838	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211839	12/17/99	\$9,000	Mannington Tile # 123 Wheat
211841	12/17/99	\$9,000	Mannington Tile # 123 Wheat
Total Purchase		\$63,000	

Paint. Below are two examples where a purchasing official split purchases on two different dates to buy a desired amount of paint. These purchase orders were issued in sequential order.

Purchase Order	Date of Purchase	Amount	Gallons Purchased
173942	6/15/98	\$2,772	150
173943	6/15/98	\$2,310	125
173944	6/15/98	\$1,848	100
173945	6/15/98	\$1,848	100
173946	6/15/98	\$1,848	100
173947	6/15/98	\$2,772	150
Total purchase for six purchase orders		\$13,398	
189541	2/3/99	\$1,848	100
189543	2/3/99	\$1,774	96
189544	2/3/99	\$1,848	100
189545	2/3/99	\$1,848	100
189546	2/3/99	\$2,772	150
189547	2/3/99	\$2,772	150
189548	2/3/99	\$1,848	100
189549	2/3/99	\$1,848	100
189550	2/3/99	\$2,772	150
Total purchase for nine purchase orders		\$19,330	

Plumbing. Two plumbing supply vendors in our sample were paid over \$4 million under more than 3,800 purchase orders for various plumbing supplies, including tubs and faucet fixtures.

Uniforms and Tools. The Authority processed 883 purchase orders for uniforms from one uniform company and over 3,000 purchase orders from a tool supply company, with an average purchase order amount of \$716.

Office Supplies. We analyzed purchases made from the office vendors in our sample and determined that for the three months with the heaviest activity, the Authority processed 215 purchase orders in December 1998, 198 purchase orders in August 1998 and 192 purchase orders in May 2000. Many of the office supplies could have been purchased more economically using contracts.

Cement. A cement vendor was awarded almost \$70,000 in two months during year 2000. None of the seven purchase orders, which were all priced between \$9,500 and \$9,983, were requisitioned under contract.

Manual System of
Contract Planning Was
Not Effective

Federal regulations require Housing Authorities to review proposed procurements to avoid purchases of unnecessary or duplicative items. Further, the Authorities procurement policy (CPP 10) requires the Executive Director to ensure that procurement requirements are subject to an annual review process to assure efficient and economical purchasing.

The Authority could not adequately determine what items it should place under contract because it was using a manual system to review file purchases. A manual system is not efficient and could easily provide faulty data since the Authority purchases goods and services from several thousand vendors. As a result contract planning was not effective. Authority personnel explained that no active contracts existed for the requisitioned items at the time of the purchases. Although they did not want to split the purchases they knew that any purchase above \$10,000 needed to be formally bid. Since the maintenance department had to have enough stock on hand to do its job, purchases were split to make sure operations ran smoothly.

Authority Began To
Initiate Corrective Actions

Based on our discussions with responsible officials, the Authority began taking corrective actions to address the problems we identified in this finding. For example, the contracting officer began soliciting and awarding contracts on some of the commodities we identified during the audit. In addition, the contracting officer stated the Authority can improve its annual planning process since its new computer system generates actual purchasing reports needed to better plan procurements.

Auditee Comments

The Authority did not dispute any of our analyses or examples of split purchasing presented in this finding. The Authority agreed with our conclusion that it had taken steps to increase the efficiency and economy of its purchasing. To this end, the contracting officer had already begun soliciting and awarding contracts on several of the commodities identified in our report. The Authority further anticipates that its new computer program will generate reports that can be used to better plan the purchasing of products and services. However, the Authority contended that it did not split purchases in order to avoid obtaining products or services through the competitive bidding process and therefore requested that we remove this entire section of the report.

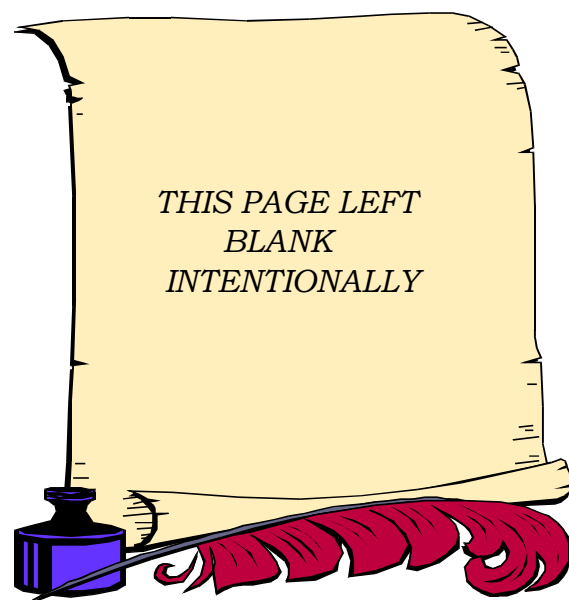
**OIG Evaluation of
Auditee Comments**

We are encouraged by the corrective actions the Authority has begun initiating as well as their recognition of the need to improve the efficiency of their purchasing practices. However, to ensure improvements in the contracting process continue, we made specific recommendations for the Authority to develop an annual contracting plan and provide documentation showing that the commodities cited in the finding were placed under contract. Further, based on our discussions with responsible personnel we concluded that personnel did in fact split purchases in order to avoid obtaining products or services through the competitive bidding process.

Recommendations

We recommend that you require the Authority to:

- 3A. Develop an annual plan from purchasing data to identify the procurement needs of the Authority emphasizing the need to use contracts when it is more efficient and economical to do so.
- 3B. Provide documentation showing that the commodities detailed in the finding have been placed under contract or provide an explanation as to why a contract would not be feasible.



The Authority Took Corrective Actions To Improve Its Vendor Payment Process

The Authority did not always make sure payments to vendors were accurate and supported. Of the 464 payments totaling \$32.4 million we reviewed for 53 vendors, we found the Authority overpaid eleven vendors \$128,792 and could not adequately support payments to seven vendors totaling \$250,892. Since our review covered only about 11-percent of the disbursements and about 3 percent of the contracts awarded during this period, total overpayments and unsupported costs for all procurements are likely much greater than we identified. In addition, we found the Authority did not always pay legal firms in accordance with contractual requirements and paid other costs that were not necessary and reasonable totaling \$16,968.

These problems occurred because weaknesses in the Authority's contract administration allowed invoices with rates higher than the approved contract rates to be paid, invoices to be paid twice, and some invoices to be paid even though they were mathematically incorrect.

During the audit, officials acknowledged they mistakenly overpaid vendors and immediately recovered \$67,358 of the \$128,792. The Authority also took a number of actions that should improve its vendor payment process. Responsible officials implemented new computer software to improve the controls over supply purchases, improved management of the payment files and increased the level of supervisory oversight. These measures should help minimize the Authority's payment problems on supply contracts. However, to ensure these problems do not reoccur the Authority needs to further strengthen its contract administration procedures by providing appropriate training to responsible personnel and incorporate its new procedures into the Housing Authority's written policy.

Vendors Were Overpaid

Using audit software, we reviewed 100 percent of the payments made by the Authority from 1998 to 2001 for the 61 contracts in our original audit sample. Altogether, we reviewed 464 payments to 53 vendors valued at \$32.4 million. Our review showed the Authority overpaid 11 of 53 vendors \$128,792. We also found payments valued at \$250,892 to seven vendors were not supported. The questioned payments were associated with supply, legal and service contracts.

The overpayments to the eleven contracts occurred because responsible contract administrators did not make sure: (1) rates billed agreed with approved contract rates; (2) vendors submitted invoices only once for payment; and, (3) the total invoice price was calculated correctly.

Federal regulations (Title 24 CFR 85.36 (b)(2)) require the Authority to maintain a contract administration system that ensures contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. In addition, each contract contains a description of the work or services to be performed and the approved rates or fees that will be paid by the Authority.

The following table summarizes the overpaid and unsupported payment amounts for the eleven vendors by contract number.

Contract Number				Unsupported Amount
1781	Service			\$ 7,050
1791	Legal	\$ 1,559	\$ 1,559	
1792	Service	\$ 13,053		
1801	Service	\$ 1,208	\$ 1,208	
1811	Supply	\$ 32,964	\$ 32,964	
1915	Service	\$ 5,153 *	\$ 3,701	\$ 20,723 **
1917	Service	\$ 15,287		\$ 6,062
1918	Service			\$ 3,205 ***
2007	Supply	\$ 9,711	\$ 9,711	
2131	Legal	\$ 13,824	\$13,824	
2235	Legal	\$ 3,075	\$ 3,075	
2274	Service	\$ 1,996	\$ 1,316	\$ 964
2483	Service			\$ 19,488
9763	Service	\$ 30,962		\$193,400
TOTALS		\$ 128,792	\$67,358	\$250,892
* Includes \$4,040 of ineligible costs also reported as ineligible in Finding 2				
** Includes \$14,500 of unsupported costs also reported as ineligible in Finding 2				
*** Includes \$2,737 of unsupported costs also reported as ineligible in Finding 2				

Maintenance Supply Contracts. Personnel overpaid vendors \$42,675 on two of three maintenance supply contracts reviewed. The vendor on contract number 2007 was overpaid on one item by 83 percent. The Authority paid \$86.25 for a cabinet when the approved contract rate was \$47.25. On contract number 1811 the Authority overpaid the vendor on several items such as lumber, plywood, and handrails. Rate overcharges on this contract ranged from \$.36 per unit to \$15.28 per unit. These rate

overcharges occurred because responsible personnel processed the purchase orders for these items incorrectly, coding them as routine requisitions instead of contract requisitions.

Legal Contracts. Contract personnel overpaid three legal firms \$18,458 on three of five contracts reviewed. Two of the three legal firms were overpaid due to minor billing errors. The third legal firm was overpaid because the firm submitted 27 different invoices to the Authority twice for payment. Responsible Authority personnel paid these 27 invoices both times the firm submitted them. After we brought these overpayments to the attention of responsible officials they took immediate action to recover the \$18,458.

Other Contracts. Six other firms were overpaid to perform work such as inspection and public relations services. On one contract overcharges were quite evident because the vendor charged in excess of 24 hours a day for each of its inspectors. Although billings contained no support for the hours charged, eight hours per day appeared to be the agreed limit. A “pre-construction meeting minutes” memorandum located in the contract file indicated work hours were from 8:00 am to 4:00 pm, Monday through Friday (excluding Holidays). However, the memorandum, which contained vendor signatures showing attendance, also stated that no work was to be performed after these hours, unless it was for an emergency and prior written Authority approval was obtained.

Since we found no additional information showing the Authority approved the additional hours, we calculated and classified all associated payments billed and paid above the 8-hour schedule up to the 24th hour as unsupported. This amounted to \$193,400. In addition, we classified \$30,962 paid to the vendor for work exceeding a 24-hour day as ineligible.

Authority officials disagreed with our classification of the unsupported charges because they conducted an internal review in 1999 and 2000 and terminated the personnel who mismanaged the payments on these contracts. They also stated that nothing in the contract limited the contractor’s working hours. Although we acknowledge the Authority took needed actions to stop payments to these vendors,

Part V Requirements
Were Not Enforced

based on the questionable billings described, neither the Authority nor we can rely on the accuracy and validity of any of the submitted billings.

Our review of the billings from four legal firms with contracts valued at \$1.2 million showed all four firms submitted billings in block format that the Authority paid contrary to contract requirements (Part V). The Authority also paid other prohibited Part V charges without questioning the billings.

Part V is included as part of each legal contract issued by the Authority. Title 24 CFR 85.36 (b)(2), requires that the Authority ensure each vendor perform in accordance with its contract requirements. Further, the Philadelphia Housing Authority Legal Department Guidelines For Outside Counsel (Contract Part V) provides guidelines under which the Authority will agree to be billed. The guidelines are designed to ensure that firms are only paid for allowable and reasonable expenses and prohibit payments for certain normal overhead expenses such as facsimile charges, local travel, and local phone calls. In addition, the guidelines state that the Authority will not pay for fees or expenses that are contained within a block billing description. That is, each line of a legal bill must contain the description of one task per time entry.

Authority personnel said some of the provisions of Part V are outdated and do not reflect the actual procedures the Authority now uses and need to be updated. Although we acknowledge that some of the Part V provisions may need to be updated, the Authority needs to enforce the current provisions until they are appropriately revised. Further, it is important to note that Part V is also an important management tool for the Authority to ensure legal firms bill the Authority only for allowable and reasonable costs, and any revisions should take this into account.

Block Billings. Contrary to the Authority's Part V Guidelines, the Authority paid legal firms who submitted block billings. As the table below shows, about 40 percent of the billings from four firms we reviewed were in a block format.

Contract Number	Number of Billing Lines	Number in Block Format	Percent in Block Format
2075	1,289	706	54 %
2131	277	122	44 %
2135	832	201	24 %
2235	234	24	10 %
TOTAL	2,632	1,053	40 %

Block billings do not provide the Authority with the level of detail needed to determine whether the billings are reasonable or accurate.

Prohibited Part V Charges Paid. In our review of the four legal services contracts, we noted the Authority often paid for charges that were specifically prohibited under Part V. Such charges included facsimile, computerized legal research, meals, local travel, clerical overtime, local telephone calls and photocopying charges that did not detail the price per page and number of copies. For example, Part V states that local facsimile charges are considered part of normal overhead and will not be accepted for payment. However, the Authority paid 27 of 45 facsimile charges we reviewed that were submitted by the four legal firms. Part V also denies reimbursement for computerized legal research since it is considered part of overhead, but we found the Authority reimbursed the four legal firms more than 60 percent of the time for such bills.

Although responsible officials stated that some of the provisions of Part V are outdated and need to be revised, they could not adequately explain why they did not enforce the existing Part V requirements. However, they did state each of the in-house lawyers receives a copy of the Part V requirements when they begin employment with the Authority. Since we audited only a small sample of legal contracts and the lack of enforcement appeared to be consistent throughout the audit, it is likely substantially more invoices with block billings and prohibited charges were paid by the Authority. The Authority needs to

Unreasonable and
Unnecessary Costs Were
Paid

carefully evaluate its current Part V requirements and guidelines and revise the provisions as appropriate.

The Authority sometimes paid vendors for other unreasonable and unnecessary costs. OMB Circular A-87 “Cost Principles for State, Local, and Indian Tribal Governments”, states that to be allowable under Federal awards, a cost must be necessary and reasonable for proper and efficient performance and administration of Federal awards. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately Federally funded. The following are costs that we believe are unreasonable and/or unnecessary.

Use of Patrol Car. Under change order 19 of contract number 1207, the Authority paid the vendor \$17 per hour (\$272 per day) for the use of a car to patrol the Schuylkill Falls Project. The Authority previously negotiated a rate of \$25 per day for the patrol car under a previous change order. Based on the previous negotiated daily rate, we believe that \$17 per hour, is unreasonable and unnecessary. If the Authority had negotiated and continued to pay the daily rate rather than the new hourly rate, it would have saved \$11,043.

Armed Guards. Further, under the same contract number 1207, change order number 11 allowed the vendor to charge \$10.75 per hour for armed guards instead of the \$9.75 per hour rate, which had been approved and charged under the original contract and all other change orders. The overcharge cost the Authority \$5,925.

Public Relation Costs. We also questioned the reasonableness of costs the Authority paid to public relations firms. Although we recognize amounts paid for public relations are generally a matter of management discretion, questions of reasonableness are particularly important when governmental units or components are predominately Federally funded. Further, many of the problems that we identified with contract modifications discussed in Finding 2 related to public relations services.

We reviewed two public relation/communication contracts that totaled \$336,521. Although we believe some of the charges were reasonable and necessary, such as pamphlets and flyers describing programs and services available to Authority residents, we concluded that others were not necessary and/or reasonable. For example:

- During June 1999, the vendor developed a farewell speech for the former Acting Executive Director to be delivered during a presentation at a farewell celebration.
- During July 1999, the vendor prepared a personal complaint letter from a staff person to a local newspaper.
- In September 1999, the vendor conferred with a staff person and edited the story on Hurricane Floyd for the Authority's "News for the Day".
- In July 2000, the vendor conducted Internet research regarding the Republican convention and media articles that may be damaging or difficult for the Authority.
- During August 2000, the vendor developed thank you letters to Senators for tours that took place during the Republican convention.

Officials believed these costs were justified because the Authority's Media Specialist was out on extended sick leave during 2000. The questioned charges, however, were not limited to 2000 alone.

Due to the manner in which the vendor billed, we could not quantify the associated questioned costs. The vendor billed several tasks per month and summarized billing hours at the end of the listed tasks for each company individual. Thus, each task did not break out hours spent or individual responsible. In addition, HUD's Office of Public and Indian Housing is currently reviewing several of the Authority's public relation contracts, including the contracts in our sample. To avoid duplicating efforts and questioning the Authority twice on the same costs, no

Authority Has Taken
Actions to Improve Its
Vendor Payment Process

corrective action will be addressed in this report. HUD's Office of Public and Indian Housing will decide which costs are considered allowable and reasonable.

The Authority implemented new computer software that improved controls over their supply purchasing. In addition, during our audit responsible officials took corrective action to strengthen contract administration procedures.

For example, the Executive General Manager for Contract Administration made beneficial changes to the management of payment files. In addition, he improved the contract register by adding more information to the file, including invoice numbers and dates. Each file now contains a copy of the contract agreement, which details the approved rates and fees. This information was previously kept separate from the payment files.

Most importantly, supervisory oversight improved contract administration. The new procedures require paperwork to support and justify each payment reviewed by higher management. These changes are all positive steps. However, to ensure these problems do not reoccur, the Authority needs to further strengthen and reemphasize proper contract procedures to responsible personnel. For example, the Authority needs to enforce the Part V requirements in legal contracts and ensure all costs are necessary and reasonable. Further, all of the contract administration payment procedures should be included in the Authority's written policy.

Auditee Comments

The Authority concurred with our finding that improvements in contract administration should minimize vendor overpayments. Additionally, the Authority provided additional documentation showing the recovery of additional funds we cited as overpayments and provided additional documents to support some other costs. The Authority disagreed that some of the costs we identified as overpayments under an inspection contract should be classified as unsupported. The Authority also disagreed with our assessment of the Part V violations, as well as the costs we classified as unreasonable and unnecessary. The Authority

also stated the Part V provisions are an internal policy and are not required by the Federal government.

OIG Evaluation of Auditee Comments

We reviewed documentation provided by the Authority for the costs we classified as ineligible and unsupported and adjusted the report when appropriate.

As we cited in the finding, the Authority is required by HUD (24 CFR 85.36 (b)(2)) to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts. The Part V requirements are part of each legal contract and thus are enforceable. In addition, internal policy and procedures are created to firm up controls and help operations run efficiently. HUD's Procurement Handbook (7460.8 REV-1, Paragraph 3-4 B) specifically requires contracting officers to follow the Housing Authority's written procurement policy. By properly implementing its own policy and all pertinent Federal regulations the Authority can improve contract administration and minimize vendor overpayments. To state the procedures do not have to be followed because they are internal procedures defeats the purpose of having internal policies and procedures and violates procurement requirements.

Recommendations

We recommend that you require the Authority to:

- 4A. Recover the remaining overpayments of \$61,434 (\$128,792 less \$67,358 recovered) from each vendor or repay these funds to HUD from non-federal funds.
- 4B. Provide documentation that supports the \$250,892 in unsupported costs or repay these funds to HUD from non-federal funds.
- 4C. Repay HUD, from non-federal funds, \$16,968 for paying unreasonable fees for guard services and patrol cars.
- 4D. Update the Part V provisions to reflect more current conditions and draft and implement written policy that will ensure the new Part V requirements are enforced.

- 4E. Develop and implement a written policy to document and ensure continued compliance with the improvements made by the Authority's Contract Administration department.
- 4F. Provide appropriate training to responsible personnel to ensure the Authority's improved contract administration procedures continue to be followed.
- 4G. Have the Authority's Office of Inspector General periodically audit a sample of current legal contracts and payments to ensure that the responsible personnel are enforcing Part V requirements and only reimbursing legal firms for allowable expenses.

Management Controls

Management controls consist of a plan of organization and methods and procedures adopted by management to ensure that resource use is consistent with laws, regulations, and policies. Management controls include the processes for planning, organizing, directing, and controlling program operations. They contain the control environment for risk assessment, information systems, control procedures, communication, and measuring and monitoring program performance.

In planning this performance audit, we evaluated the Authority's management controls related to our objectives to determine the audit scope and the procedures. Relevant to our audit objectives were the Authority's management systems and controls for:

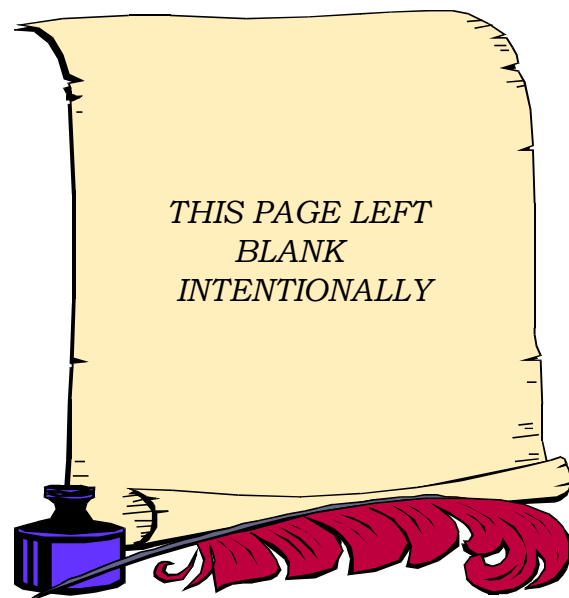
- Soliciting, awarding, and administering contracts
- Planning contract needs annually
- Managing contract payment, including the enforcement of approved rate and allowable cost provisions
- Ensuring the completion of contract work scope

A significant weakness exists if management controls do not give reasonable assurance that: resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and reliable data are obtained, maintained, and fairly disclosed in reports.

Significant Weaknesses

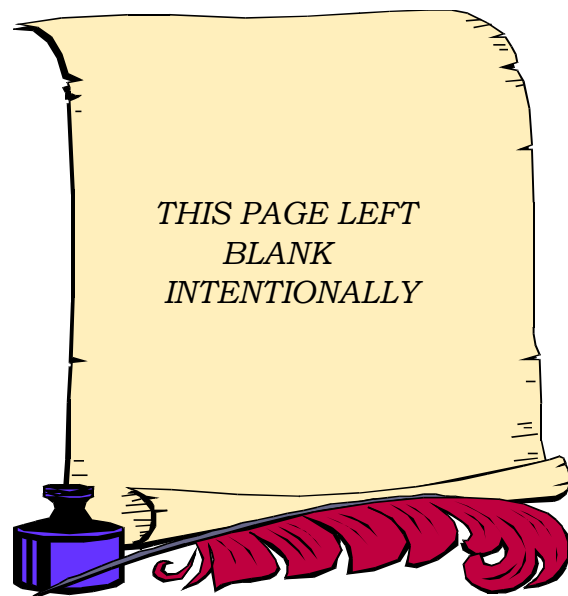
From our review, we determined the following to be significant weaknesses:

- The Authority did not always properly solicit and award contracts to allow for full and open competition;
- Cost estimates were not always completed for contract solicitations and often were not done for contract modifications;
- Additional work awarded under contract modifications, was not always evaluated to determine if new solicitations were warranted;
- The Authority allowed work to be completed, under contract modifications, without the prior approval of the Authority's contracting officer;
- The Authority's annual contract needs were not evaluated annually in an efficient manner;
- Invoices were approved and paid that did not comply with the Authority's payment requirements.



Follow Up On Prior Audits

No recent audits have been conducted on the Philadelphia Housing Authority's contracting/procurement activities. In addition, no outstanding recommendations, OIG or other, exist in this area.



Schedule of Questioned Costs

Finding Number	Ineligible 1/	Unsupported 2/
2	\$320,318	-
4	\$145,760 3/	\$250,892
Overlap	(\$ 4,040) 4/	-
Total	\$462,038	\$250,892 5/

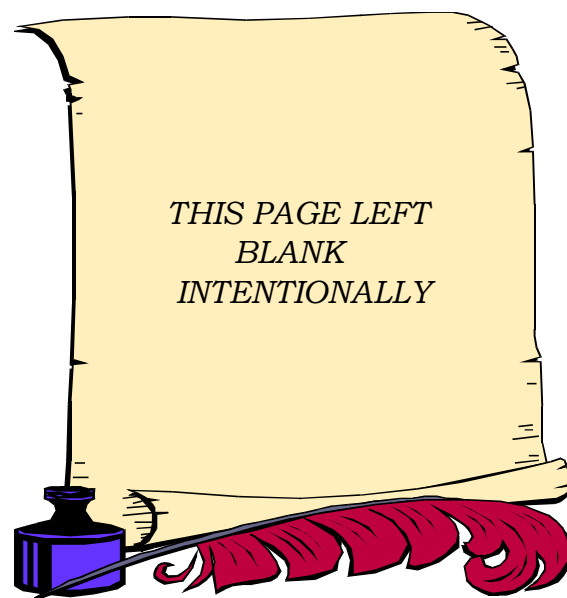
1/ Ineligible amounts are not allowed by law, contract, HUD or local agency policies or regulations.

2/ Unsupported amounts are not clearly eligible or ineligible, but warrant being contested (i.e. lack of satisfactory documentation to support the eligibility of the costs.)

3/ The Authority recovered \$67,358 of this ineligible amount during the audit.

4/ \$4,040 of ineligible costs were questioned in both Findings 2 and 4.

5/ \$17,237 of the \$250,892 unsupported costs was also classified as ineligible in Finding 2.



Contract Sample Selection

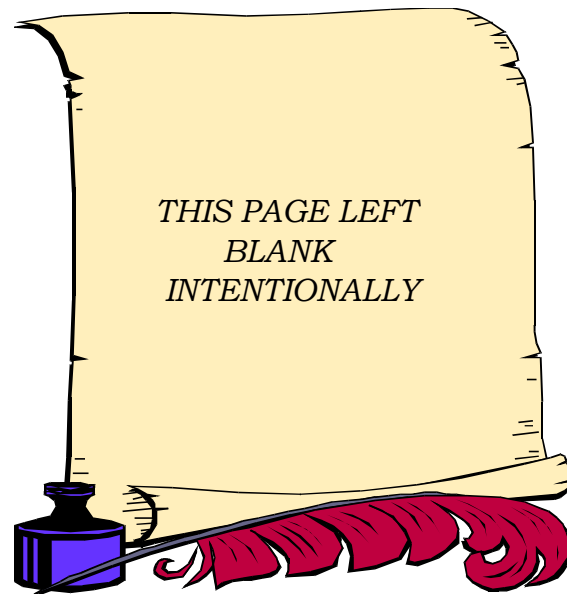
Contract Number	Original Contract Amount	Purpose of Original Contract
1687	\$ 1,000,000	Resource Development & Support Service
1718	4,816,272	PHA Office Space Lease
1775	597,984	Capital Planning Consultants For Strategic Technical Services
1780	2,000,000	Development Agreement for Spring Garden Revitalization
1781	2,800,000	Intergovernmental Agreement for Telecommunication Services
1791	100,000	Construction Legal Services
1792	99,800	Assessment of Resident Service Program
1801	81,000	Community Development Strategy Consultant
1873	100,000	Development Initiatives Consultant
1915	25,000	Communication Services for Executive and Administrative Operations
1917	234,024	Technical Service Assistance-Citywide Rental Housing Market Study
1918	56,425	Media and Communication Services
1950	96,000	Home Ownership Consulting Services
1965	290,026	Site Base Management Plan Consultant
1967	68,000	ISM Assessment Services
1986	310,359	Property Insurance
1996	208,352	Vehicle Purchase - Central Maintenance
2007	1,096,606	Supply of Cabinets and Countertops
2008	256,665	Vehicle Purchase - Central Maintenance
2027	666,666	Construction Management Service
2072	100,000	Financial Consulting Services for PHA Capital Funds
2075	195,000	Litigation Services For Federal Civil Action: ADAPT vs PHA
2131	562,500	Legal Counsel for PHA's Self Insurance Program
2135	332,000	General Legal Services
2145	98,900	Pre-Apprentice Program Services
2155	200,000	Development Initiatives Consultant
2161	666,666	Construction Management Service
2213	1,937,250	Loan Agreement for Revitalization of Martin Luther King Plaza
2214	272,520	Vacancy Tracking Application With CCS Integration Development
2235	75,000	Legal Services
2272	2,997,677	Intergovernmental Agreement with RDA for Schuylkill Falls
2274	1,612,000	Enterprise Resource Planning System
2284	1,290,068	Security Guard Services

2342	\$ 110,500	Supply of Hot Water Heaters
2369	4,500,000	Loan Agreement for Revitalization of Martin Luther King Plaza
2378	60,000	Graphic Design and Other Public Information Services
2395	4,889,490	Workers Compensation Insurance
2396	1,252,200	Automobile Insurance
2483	2,179,725	Implementation and Integration of the Enterprise Resource Planning
9678	914,740	Supply and Installation of Windows
9760	517,740	Environmental Inspection and Monitoring Services
9762	271,545	Environmental Inspection and Monitoring Services
9763	191,792	Environmental Inspection and Monitoring Services
9842	53,965	Contaminated Soil Removal at Schuylkill Falls
9955	1,568,985	Exterior Wall Replacement
9957	498,000	Door Replacement Construction
10042	1,377,576	Exterior Wall Replacement
10135	28,225	Removal of Underground Tanks at Two Developments
10185	174,800	Asbestos Abatement at Various Sites
10294	449,500	Hazardous Materials Abatement
10353	259,620	Demolition Support Services
10355	501,100	Gas Line Work at Raymond Rosen
10377	7,570	Scattered Site Rehabilitation
10388	1,937,250	Demolition Services
10391	1,506,900	General Construction at North College Avenue
10578	984,180	Norris Apartments Site Renovations
10600	2,720,000	Heating System Improvements
10674	2,700	Scattered Site Rehabilitation
10775	1,033,001	Demolition of Various Scattered Site Properties
10822	247,900	Demolition of Various Units at Tasker Homes
10970	4,820	Scattered Site Rehabilitation
TOTAL	\$ 53,486,584	

Contract Modification Review

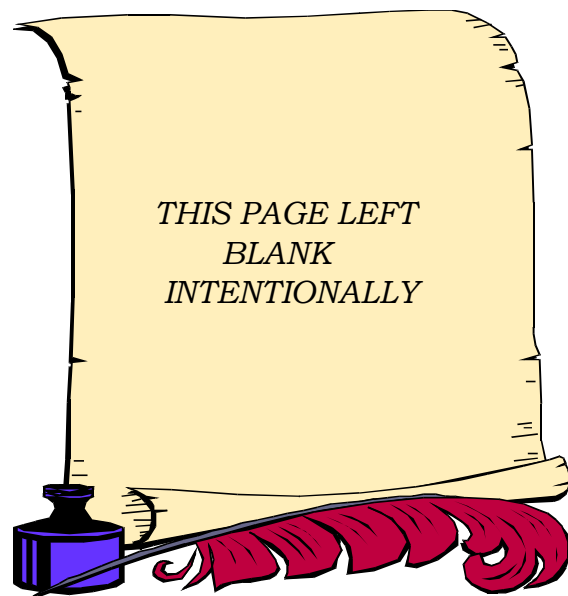
Contract Number	Base Contract (Includes Options)	Number of Modifications	Net Increase	Percent Increase	Deficiencies With Award of Modifications		
					No Cost Estimate*	New Solicitation Needed	Awarded After Work Completed
ORIGINAL AUDIT SAMPLE							
1915	\$ 25,000	3	\$ 115,000	460%	X	X	X
9842	53,965	2	150,200	278%	X		
2075	195,000	5	500,000	256%	X		
1918	59,425	3	137,096	231%	X	X	X
2235	75,000	2	133,000	177%	X		
1792	99,800	4	134,200	134%	X	X	X
2155	200,000	2	249,989	125%	X		
1917	234,024	3	233,535	100%	X		
1950	96,000	1	83,000	86%	X		
1801	81,000	2	69,370	86%	X		
1791	200,000	1	100,000	50%	X		
1775	567,984	2	269,999	48%	X		
9957	498,000	1	225,000	45%	X		
2145	191,043	2	69,596	36%			
1967	98,000	1	30,000	31%	X		
2483	2,179,725	2	500,000	23%			
10578	984,180	2	103,085	10%			
2214	272,520	1	30,859	11%	X		
9678	914,740	2	95,000	10%	X		
10388	1,937,250	2	163,436	8%	X		
10294	449,500	2	42,338	9%			
2274	1,612,000	1	13,400	1%			
ADDITIONAL OLDER CONTRACTS REVIEWED							
353	150,000	11	2,228,762	1486%	Not Reviewed	X	
378	100,000	2	175,000	175%	Not Reviewed	X	
464	125,000	5	830,550	664%	Not Reviewed	X	
1207	3,274,440	23	1,338,529	41%	Not Reviewed	X	X
TOTALS	\$14,673,596	87	\$8,020,944	55%			

* For three modifications the cost estimates was prepared after the proposal was received.



Contract Deficiencies

CONTRACT NUMBER	BASE CONTRACT VALUE (EXCLUDING OPTIONS)	OVERPAID UNSUPPORTED COSTS AND PART V REQUIREMENTS NOT ENFORCED	NO ESTIMATE FOUND FOR ORIGINAL SOLICITATION	ESTIMATE NOT DONE PROPERLY FOR CHANGE ORDER(S)	NOT ADVERTISED PROPERLY	WORK SCOPE CHANGED AFTER BIDS WERE RECEIVED	OPTIONS LACKED PROPER EVALUATION
1687	\$1,000,000		X				
1775	597,984			X			
1781	2,800,000	X					
1791	100,000	X	X	X	X		X
1792	99,800	X	NO DATE	X			
1801	81,000	X		X	X		
1915	25,000	X	NO DATE	X	X		
1917	234,024	X		X			
1918	56,425	X		X			
1950	96,000			X			
1965	290,026		NO DATE			X	
1967	68,000		NO DATE	X	X		
2007	1,096,606	X					
2072	100,000				X	X	X
2075	195,000	X	X	X			
2131	562,500	X					
2135	332,000	X					
2145	98,900		X				X
2155	200,000		X	X			
2214	272,520			X			
2235	75,000	X	X	X			
2274	1,612,000	X					
2378	60,000		X		X	X	X
2483	2,179,725	X					
9763	191,793	X					
9957	498,000			X			
9678	914,740			X			
9842	53,965			X			
10353	259,620				X		
10388	1,937,250			X			
10822	247,900		NO DATE				



Auditee Comments

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November 12, 2002

BY HAND DELIVERY

Mr. Daniel G. Temme
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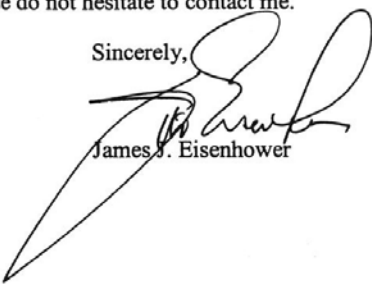
***Re: Response of the Philadelphia Housing Authority to the
Office of Inspector General Draft Report Contracting and
Procurement Activities***

Dear Dan:

Enclosed herewith is the Response of the Philadelphia Housing Authority to the Office of Inspector General Draft Report on Contracting and Purchasing Activities. The exhibits cited in the Response will be forwarded to you shortly.

If you have questions, please do not hesitate to contact me.

Sincerely,


James J. Eisenhower

JJE/kpc
Enclosure

Mr. Daniel G. Temme
November 12, 2002
Page 2

cc: Mr. Kenneth M. Donohue, Sr.
Mr. James Heist
Bryan Saddler, Esquire
Mr. John Buck
Ms. Tina Schimony

**RESPONSE OF THE PHILADELPHIA HOUSING AUTHORITY
TO THE OFFICE OF INSPECTOR GENERAL DRAFT REPORT
ON CONTRACTING AND PURCHASING ACTIVITIES**

NOVEMBER 12, 2002

**Philadelphia Housing Authority
12 South 23rd Street, 6th Floor
Philadelphia, PA 19103-4497**

PHL_A #1688577 v1

Table of Contents

	Page
Introduction.....	1
Finding 1: Service Contracts Were Awarded Properly [Report at 6]	3
A. Solicitations Were Properly Advertised [Report at 6]	3
i. Solicitation No. 1791 [Report at 7]	4
ii. Solicitation No. 1801 [Report at 7]	5
iii. Solicitation No. 1915 [Report at 7]	5
iv. Solicitation No. 1967 [Report at 7]	5
v. Solicitation No. 2072 [Report at 7]	5
vi. Solicitation No. 2378 [Report at 7]	5
B. PHA Properly Modified the Scope of Work After The Close of Contract Solicitation [Report at 7]	6
i. Contract No. 1965 [Report at 8]	6
ii. Contract No. 2378 [Report at 8]	6
iii. Contract No. 2072 [Report at 8]	7
C. Contract Options Were Properly Evaluated [Report at 9]	7
D. PHA Properly Estimated Contract Costs [Report at 10]	8
E. Response to OIG Recommendations (Finding 1)	9
1A. [Report at 10]	9
1B. [Report at 11]	10
1C. [Report at 11]	10
Finding 2: Contract Modifications Were Properly Awarded [Report at 12]	11
A. A Written Modification is Not Required Before the Start of Work [Report at 13]	11
i. Contract No. 1207 [Report at 14]	12
ii. Contract No. 1915 [Report at 14]	13
iii. Contract No. 1918 [Report at 14]	13
iv. Contract No. 1792 [Report at 14]	13
B. Contract Modifications Need Not Have Been Issued as New Procurements [Report at 15]	14
i. Public Relations Contract Nos. 1918 and 1915 [Report at 15]	14
ii. Consulting Contract No. 1792 [Report at 16]	15
iii. Legal Services Contract Nos. 353, 378 and 464 [Report at 16]	15
iv. Security Contract No. 1207 [Report at 17]	16
C. Outside Consultant Ratified PHA's Conclusion that Reasonable Value Was Obtained for Contract Modifications [Report at 17]	17
D. Response to OIG Recommendations (Finding 2)	17
2A. [Report at 18]	17
2B. [Report at 19]	17
2C. [Report at 19]	18
2D. [Report at 19]	18
2E. [Report at 19]	18
2F. [Report at 19]	18

PHL_A #1688577 v1

Finding 3:	PHA Did Not Split Purchases to Avoid the Competitive Bidding	
Process	[Report at 20]	19
A.	Response to OIG Recommendations (Finding 3)	19
	3A. [Report at 23]	19
	3B. [Report at 23]	19
Finding 4:	PHA Concur That Improvements in Contract Administration Should Minimize Vendor Overpayments [Report at 24]	20
A.	The OIG Chart Does Not Accurately Reflect Payments Received [Report at 25]	20
	i. Maintenance Supply Contracts [Report at 25]	21
	ii. Legal Contracts [Report at 25]	21
	iii. Other Contracts [Report at 25]	21
	iv. Part V Requirements [Report at 26]	22
B.	Costs Paid by PHA Were Reasonable and Necessary [Report at 28]	22
	i. Patrol Car Contract [Report at 28]	23
	ii. Armed Guards Contract [Report at 28]	23
	iii. Public Relations Contracts [Report at 28]	23
C.	PHA's New Computer System Addresses OIG's Concerns [Report at 29]	23
D.	PHA Has Adequate Management Controls that Are Continually Improving [Report at 31]	24
E.	Response to OIG Recommendations (Finding 4)	25
	4A. [Report at 30]	25
	4B. [Report at 30]	25
	4C. [Report at 30]	25
	4D. [Report at 30]	25
	4E. [Report at 30]	25
	4F. [Report at 30]	25
	4G. [Report at 30]	25
CONCLUSION		26

Introduction

The Philadelphia Housing Authority (hereinafter "PHA" or "the Authority") hereby responds to the Office of Inspector General's (hereinafter "OIG) October 28, 2002 Draft Report on PHA's Contracting and Purchasing Activities (hereinafter the "Report"). PHA notes that after 24 months of Report preparation, the OIG makes the following overall findings:

- Of the \$113 million dollars in contracts, modifications, purchases and payments reviewed, less than one percent (1%) are considered by the OIG to be either ineligible (\$439,577) or unsupported (\$267,531) expenditures.
- For the most part, the Authority solicited, awarded and administered construction contracts in accordance with federal procurement regulations.
- The Authority generally followed proper procurement procedures and ensured expenditures were reasonable and necessary.

In addition, PHA concurs with OIG findings that:

- The Authority implemented a new computer system that improved controls for every facet of supply purchasing; from requisitions and purchase order development to ensuring correct contract rates are paid on all supplies.
- The Executive General Manager for Contract Administration ("EGMCA") made significant improvement to the Authority's contract administration system during 2001.
- The EGMCA made beneficial changes to the management of payment files.

PHL_A #1688577 v1

- The contract register spreadsheet was improved by adding more information to the file.

- Supervisory oversight has improved the administering of contracts; specifically, new procedures require documentation to support and justify each payment reviewed by higher management.

PHA responds to the narrative section of the Report and to the recommendations set forth therein as follows.

Finding 1: Service Contracts Were Awarded Properly [Report at 6]

A. Solicitations Were Properly Advertised [Report at 6]

PHA's Procurement Policy, CPP-10, provides in II(B)(3) "... a minimum of thirty (30) days is provided for preparation and submission of bids or proposals; unless a shorter time frame is required and approved by the Executive Director for good business reasons and in that case, the rationale for approval shall be included in the approval documentation ..."

The HUD Procurement Handbook, 7460.8, Rev. I does not mandate how long a procurement should remain open. The HUD Sample Procurement Policy (7460.8, Rev. 1, Appendix 2) only recommends a minimum of 30 days for main construction contracts and 15 days for other contracts, unless state law provides otherwise. In the Commonwealth of Pennsylvania, State law does not mandate a fixed time for receipt of bids/proposals.

The OIG identified six solicitations that were not open for 30 days comparing the Advertisement and Solicitation closing dates as follows:

Solicitation Number	Advertisement Date	Solicitation Close Date
1791	6/1/98	6/15/98
1801	6/27/98	7/6/98
1915	7/9/98	7/20/98
1967	3/2/99	3/5/99
2072	7/12/99	7/19/99
2378	6/16/00	6/26/00

It is important to first recognize the 30 day advertisement requirement and Executive Director approval of variations is a PHA self-imposed requirement in its Procurement

Policy, not mandated by either HUD or State law. To that extent, PHA may, under appropriate circumstances, waive such a requirement so long as PHA does not otherwise violate Federal or State law. For example, the Commonwealth Procurement Code does require in Section 512(c) that public notice be given for a reasonable time before bid opening, but does not mandate a 30 day period.

Second, use of the Advertisement date in the chart gives the false impression that the Solicitation was only available from that date. As reflected below, the Solicitation was available and sent to prospective bidders before it was publicly advertised. It is PHA's experience that few bids/offers are received as a result of the notice that appears in the newspaper, even for solicitations open for 30 days or more. The vast majority of bids/offers are received from bidders who are sent copies of the Availability of the Solicitation or are otherwise aware of PHA's recurring requirements and request a copy of the Solicitation.

Third, even though less than 30 days may have been allowed for submission of proposals, in most instances, the proposal submission consists of rates, hours, and past experience. In an RFP, these rates and hours are often revised prior to the Best and Final Offer ("BAFO") being submitted, giving the offeror ample opportunity to hone and refine its final price. For example, even though Solicitation 1801 closed on July 6, 1998, the BAFO was not due until July 30, 1998. Under these types of circumstances, most offerors require far less than 30 days to prepare an initial proposal.

i. Solicitation No. 1791 [Report at 7]

This contract for construction legal services had five offers submitted, evidencing the fact that there was no shortage of competition despite the shortened submission period.

ii. Solicitation No. 1801 [Report at 7]

This was a rebid of a previously cancelled Solicitation so the potential bidders had knowledge of PHA's needs as of May 29, 2002, the date of the original Solicitation. The Solicitation in question was issued to potential bidders by Federal Express on June 19, 2002, even though it was not advertised until June 23, 2002. As evidence of competition, four proposals were received.

iii. Solicitation No. 1915 [Report at 7]

Adequate competition was received as evidenced by three offers being received. Moreover, this was the third rebid for these services, so significant previous notice had been provided.

iv. Solicitation No. 1967 [Report at 7]

Approval was obtained as reflected in the Solicitation Transmittal Sheet, due to the fact that the services were ". . . critical to ISM Department operations and consequently PHA's ability to operate effectively."

v. Solicitation No. 2072 [Report at 7]

The shortened time frame was created by the need to provide a HUD mandated report. Adequate competition was achieved given that two proposals were received. PHA mailed the proposal to six companies. The proposals received consisted principally of rates and hours, which could be revised in the BAFO.

vi. Solicitation No. 2378 [Report at 7]

The Solicitation was mailed to four companies including the awardee. The Solicitation was issued on June 14, 2002, even though not advertised until June 16, 2002. The work (i.e. completion of the annual report) had to be completed by July 21, 2002, so the Solicitation could not remain open for the full 30 days.

While true that the eventual awardees' name appeared in the Statement of Work (the PHA requestor thought PHA was modifying an existing contract with the same contractor), it is pure speculation to suggest this error stymied competition. PHA corrected the error by Amendment to the Solicitation. Resolicitating would not only have highlighted the error, but unnecessarily delayed the acquisition.

B. PHA Properly Modified the Scope of Work After The Close of Contract Solicitation [Report at 7]

The Report identifies three contracts in which the Authority's Contracting Officer allegedly made additions to the scope of work before the contract award, but after the solicitations had closed and proposals had been received from the bidders.

i. Contract No. 1965 [Report at 8]

The Report states the additional \$55,000 in security work should have been added to the Solicitation prior to selection, giving all bidders the opportunity to bid on the additional work. Three offers were received. It is pure speculation to argue inclusion of the security work at this stage would have produced more offers. Of the three offerors who submitted offers on the base Solicitation, two were found responsible. A run off was conducted that included the additional security work. The losing offeror's proposal was late and failed to meet the scope of work. The additional security work was added to Contract 1965, but only after the selected contractor's original proposal of \$74,991 was negotiated down to \$55,000. Since the two run off proposals included the additional security work, competition existed.

ii. Contract No. 2378 [Report at 8]

Task orders for the additional work were never issued, so the amendment to the Solicitation is a moot point. Only one offer was received. It is speculative to suggest that additional offers would have been received if the work was part of the original Solicitation,

especially since it was neither dramatically different from nor more extensive than the base work under the original Solicitation.

iii. Contract No. 2072 [Report at 8]

PHA sent the Solicitation to six potential offerors with two offers received, one of which was late. It is speculative to suggest that the addition of an option for \$100,000 would have resulted in additional competition. By its very nature, the exercise of the option is within the sole discretion of PHA and even if exercised, there is no guarantee that PHA would issue task orders for the option work

C. Contract Options Were Properly Evaluated [Report at 9]

HUD and PHA Board approval are not required where the base contract does not exceed the simplified acquisition threshold (\$100,000) even if options, if exercised, would exceed the threshold. In other words, the base contract amount should not be combined with the option amount to determine "amount of the contract" for triggering HUD and PHA approval. While the HUD Procurement Handbook does require PHA to document whether the option was evaluated as part of the base contract before exercise (7460.8 REV-1, 6-2 (D)), it is not correct to say the contract price at time of award includes the option price. The evaluation is required to be sure the proposal is not back loaded in the option years compared to other offers. Nothing mandates the exercise of the option and the contractor has no right to insist that it be exercised. PHA records the base contract amount as an obligation at the time of award, but does not "book" the option until it is exercised.

As to any PHA required approval, PHA is in the best position to interpret the intended application of its own requirement. Since it is under no HUD requirement to adopt a review threshold for Board approval of contracts, it alone should determine if it wishes to aggregate the base award and option(s) to trigger Board review. In that regard PHA's recently

revised Procurement Policy, approved by HUD on September 5, 2002, makes clear that Board approval is only required if the base contract or any option exceeds \$100,000.

D. PHA Properly Estimated Contract Costs [Report at 10]

The following chart contains PHA's response to each solicitation where either no PHA estimate or an undated estimate was found. In general, where the PHA estimate may have been missing from the file (which occurred in a statistically small number of cases), there was nevertheless secondary evidence that such an estimate was performed. For example, a Simplified Acquisition Procedures form may be in the file containing the estimate or a Memorandum of Negotiations memo may reflect PHA's negotiation position, which was based on a previously determined PHA estimate.

Contract Number	No Estimate/No Date According to OIG	PHA Position
1687	No Estimate	Attached hereto as Exhibit "A" is a fee schedule showing maximum amount of \$1,000,000 available with an itemized breakdown.
1791	No Estimate	PHA's negotiation memorandum (Exhibit "B") contained the PHA estimate reflected as the PHA objective.
1792	No Date	Incorrect. PHA's estimate was dated 5/22/98 (See Ex. "C").
1915	No Date	Correct
1965	No Date	Correct
1967	No Date	Correct
2075	No Estimate	Correct. Legal Services Contract submitted to HUD (See discussion of Legal Services Contracts).
2145	No Estimate	Estimate of \$91,245 stated on Award Fact Sheet.
2155	No Estimate	TBD1
2235	No Estimate	Correct. Legal Services Contract submitted to HUD (See discussion of Legal Services Contracts).
2378	No Estimate	Estimate of \$65,000 on Award Fact Sheet.

E. Response to OIG Recommendations (Finding 1)

1A. [Report at 10]PHA will continue to train its contracting personnel in proper contract award procedures, and will place particular emphasis on the specific matters delineated in this recommendation. In that regard, on October 22 and 24, 2001, a majority of PHA's managers

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- 1 PHA will supplement its position with respect to Contract No. 2155.

attended a course conducted by outside counsel entitled, "Understanding the Procurement Process of PHA and Your Role in It."

1B. [Report at 11]PHA is continually striving to improve and modernize its contracting and procurement practices and procedures, and will continue to do so. To that that end PHA recently implemented the new PeopleSoft computer program, which, among other things, will improve the Authority's contracting and procurement functions. PHA's continual efforts at improvement, and the implementation of the PeopleSoft tool adequately address this recommendation and the preparation and implementation of an additional "plan to improve" is unnecessary.

1C. [Report at 11]PHA will continue to comply with all applicable rules and regulations relative to: (1) solicitation advertisement, (2) cost estimates, (3) contract amendments, and (4) options.

Finding 2: Contract Modifications Were Properly Awarded [Report at 12]

**A. A Written Modification is Not Required Before the Start of Work
[Report at 13]**

By way of response to all four contracts identified by the OIG, nothing in the documents cited by the OIG, or otherwise found by PHA, precludes the Contracting Officer from issuing direction under the contract that only later became the subject of a bilateral modification. In fact, such action is authorized by the contracts' Changes clause.

All of the contracts cited contained a Changes clause authorizing the Contracting Officer to issue oral changes which would thereafter be followed by a written modification.

Clause 13, "CHANGES," provides in pertinent part:

(b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

(c)

(d) If any change under this paragraph causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changes by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing.

Under contract law, such a direction is enforceable. The Contracting Officer could not order supplies or services for PHA and once delivered or performed, refuse to pay for them because a modification had not been executed. In every example cited, the Contracting Officer, or someone acting at his direction, ordered work to be performed. While CPP-534 does state, as the OIG noted, contract modifications are to be in writing and executed by the

Contracting Officer, that does not mean (nor does CPP-534 state) that the Contracting Officer cannot issue an order for services prior to a written modification being executed.

The Report also relies on the language of HUD Form 5370 whose changes' clause requires prior written approval of the Housing Authority. The changes clause of HUD Form 5370, however was not part of the contract between PHA and the cited contractors. Moreover, HUD approved the proposed solicitation and resulting contract award (in the case of Contract 1207) containing the PHA clause authorizing oral changes. See Ex. "D". Even assuming the HUD Procurement Handbook mandated use of HUD Form 5370, HUD approved PHA's use of the alternate changes clause. The alternate clause is identical to that currently found in HUD Form 5370 (4/2/2002).

Finally, it is not clear how in ordering services before a written modification is executed PHA, ". . . forfeited the ability to properly evaluate the modification and lost opportunities to achieve substantial savings" (Report at 13). Having ordered and at least partially received the services prior to execution of the modification, PHA is in a better position to determine if full value was received and therefore worth the agreed upon price. PHA's specific response to the four cited contracts is as follows:

i. Contract No. 1207 [Report at 14]

With the exception of Modification 19, the Report lists, but does otherwise identify, five modifications that paid for work already completed. PHA examined the 23 modifications associated with Contract No. 1207 and found that five that were signed after services had begun (i.e., Modifications 11, 12, 13, 14, and 19). With respect to Modifications 11 through 14, a public exigency existed which required the Contracting Officer to direct the contractor to cover a site which was left unguarded due to the termination of another contractor. The coverage period in the modification was intended to coincide with the then anticipated end

of the contract and was not unreasonably long. The longer period is reflected in the lower hourly rate negotiated by PHA. Modification 19 was a “clean-up” modification for monies determined to be owed for previously provided services.

ii. Contract No. 1915 [Report at 14]

This is not a situation of work having been performed prior to a modification being negotiated. Rather, it is a situation of a price having been negotiated, work having then been performed, and PHA staff failing to document the results of the negotiations with a modification.

iii. Contract No. 1918 [Report at 14]

The Public Relations work representing the \$75,082 was performed in July and August 2000. This was an extremely active time for PHA’s Public Affairs Office given that the Republican National Convention (and the lead up thereto) was taking place in Philadelphia, and a significant number of influential lawmakers sought information regarding PHA. PHA’s then in-house media specialist was absent from work for some of this period, leading PHA to call on the contractor to perform on an emergency basis. Once the PHA media specialist returned, the work was reviewed by her and a modification issued. Also, PHA was proactive by reviewing its needs and issuing a new Solicitation in July 2000, and subsequently awarding a new contract.

iv. Contract No. 1792 [Report at 14]

The work was authorized, completed satisfactorily, and incorporated into a contract modification.

Notwithstanding the alleged violations, the sanction imposed, return of the \$332,251.00, is not warranted. The OIG has listed these costs as ineligible. (See Appendix A). An ineligible cost is one that is questioned because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document

governing the expenditure of funds ("Laws"). (See HUD Directive 2000.6, Audits Management System, Para. 5-4(B)(2)(C)(1)). Here, the alleged violation is of an internal PHA procedure (CPP-534) and an inapplicable HUD form and not of any of the Laws listed in the HUD Directive. Consequently, the cost is not ineligible. Apart from that, the services were needed; they were ordered by the Contracting Officer; they were performed, and PHA received value.

B. Contract Modifications Need Not Have Been Issued as New Procurements [Report at 15]

PHA maintains that under many of the examples cited by the IG, a modification was authorized because the work authorized by the modification was not required by the base contract, but was within its general scope. While the paraphrase of the HUD Handbook is accurate, as previously noted, the Handbook is not controlling unless based on law or regulation. The applicable regulation, 24 CFR 85.36, does not address modifications (except to require HUD approval of out-of-scope modifications). The PHA Procurement Policy in effect at the time, CPP-10, did not address modifications. There is no evidence that PHA forfeited substantial savings by not competing the work in the modifications. In several cases, the services were urgently required and any delay in soliciting the services would have been detrimental to PHA and its residents. In other cases, the modification amounts were minimal, likely would not have resulted in lower prices if solicited, and were determined to be fair and reasonable. Still in others, PHA made the management decision to modify the contract rather than solicit. This made sense, especially where minimal or no competition existed for the basic contract.

i. Public Relations Contract Nos. 1918 and 1915 [Report at 15]

PHA's position regarding Contract 1918 is the same as previously stated herein (namely, that the PHA Public Relations office was short staffed at a critical time). Contrary to the OIG allegations, Contract 1915 did have additional tasks added by modification including

“production of print marketing material” described elsewhere in the contract file as including original writing, editing, and proofing for design of various marketing materials.

ii. Consulting Contract No. 1792 [Report at 16]

The modifications were not for the same work. The file contains detailed letters from the contractor explaining how the effort under the modifications differs from the base contract work. Also, the additional work (training) was related to the Statement of Work for the contract. See Ex. “E”.

iii. Legal Services Contract Nos. 353, 378 and 464 [Report at 16]

Modifications to legal contracts were prepared and processed by PHA’s Legal Department. With respect to these modification, PHA requested and received the approval from the HUD Office of the General Counsel (“OGC”) under a system that had been in place for years. (See Exs. “F” and “G”). As PHA stressed during PHA’s October 9, 2002 meeting with the OIG, PHA reasonably believed it needed no further approval other than a letter from the OGC stating that a given modification was approved. The OGC approval letters reflected a recognition by HUD of the amount of the modification, the revised contract amount, and in some cases, that the modification was to pay for services already received by PHA. The OIG’s conclusion that PHA “bypassed the competitive [bidding] process” is unfair and inflammatory and should be removed from the Report. Further, the Report’s lukewarm acknowledgement that it “appears the Authority’s General Counsel might have misinterpreted the approval letter . . .” fails to recognize the legitimate impact of the HUD OGC letters on PHA’s actions.

PHA reasonably concluded that no further review or approval of legal contracts was required. As the OIG recognized, nothing in the HUD approval letters notified PHA that the approval was limited in scope. Unless directed otherwise, going forward PHA will submit all

legal contract modifications and related matters to the Authority's Contracting Officer for approval, as well as the OGC.

iv. Security Contract No. 1207 [Report at 17]

PHA disagrees with the OIG assessment of Contract No. 1207 and its modifications. PHA does admit the original format of the contract in which individual sites were listed rather than issuing a task order covering all present or future sites reduced PHA's flexibility in responding to emergency situations. Notably, however, HUD's approval letter recommended listing each site separately. See Ex. "D". It was PHA's procurement plan to have several guard service contracts to call upon. Unfortunately, one of those contractors defaulted leaving PHA to fill the void from other contracts including Contract No. 1207 (See Modification 11 through 17 which lists the terminated contract as the reason for the modification). There were other emergency situations that arose, such as unanticipated vandalism of confiscated vehicles at Passyunk Homes (Modification 11).

PHA's issuance of a new solicitation for guard services to replace the current contracts (including Contract No. 1207) and evaluation of proposals received in response thereto, resulted in unanticipated delays. As a result, PHA issued Modification 19 through 23 on Contract No. 1207 for the stated reason of "delay in awarding new security contract".

PHA did not split modifications to avoid Board review. Presumably, the OIG is referring to Modifications 22 and 23 for \$129,831 and \$128,397 respectively which were issued for guard services for July and August 2000. These modifications were issued for one month periods only while PHA attempted to get the new contracts in place. New contracts were in place by September 2000.

C. Outside Consultant Ratified PHA's Conclusion that Reasonable Value Was Obtained for Contract Modifications [Report at 17]

In the "Pre-Draft Audit Report" that was provided to PHA on or about September 10, 2002, the OIG recommended that Authority be required to: "[d]etermine whether a reasonable value was received for the 27 modifications totaling \$2.2 million that were awarded without a cost estimate." Following its receipt of this recommendation, PHA retained KPMG Consulting ("KPMG") to work with the Authority in gathering and analyzing the data needed to conduct a "reasonable value" assessment, and to perform the same. See Ex. "H". The assessment was completed during the first week of October 2002, and on or about October 8, 2002 PHA provided the OIG with a copy of KPMG's written findings which, among other things, concluded that PHA did in fact receive reasonable value for the modifications in question.

In the Report, the OIG states that "there is reasonable assurance that [KPMG's] conclusions have merit." Based on this finding, and because PHA hereby adopts and endorses the methods, analysis and conclusions that are embodied in the KPMG findings, this section of the Report should be deleted in its entirety.

D. Response to OIG Recommendations (Finding 2)

2A. [Report at 18] PHA will review its current policy and procedures on estimation for contract modifications and where necessary, revise those policies and procedures to insure compliance. Moreover, PHA will ensure that its employees receive training in the importance of providing accurate estimates. It should be noted PHA recently revised its procurement policy, which HUD approved, which now addresses modifications.

2B. [Report at 19] PHA has adopted and endorsed KPMG's findings with respect to whether PHA received "reasonable value" for the modifications at issue. As such, and given the OIG statement that "there is reasonable assurance that [KPMG's] conclusions have merit," PHA

contends that this section of the Report and its corresponding recommendation should be deleted in their entirety.

2C. [Report at 19]PHA will continue to train its contracting personnel on contract modification procedures and will place particular emphasis on the specific matters delineated in this recommendation.

2D. [Report at 19]For the reasons set forth above in PHA's response to Finding 2, PHA vigorously disputes this recommendation, and contends that the repayment of federal funds is wholly unwarranted.

2E. [Report at 19]PHA will revise CPP-534, Contract Modifications, to specifically address the review of legal contract modifications.

2F. [Report at 19]PHA will revise CPP-534 to require the Contracting Officer or his/her designee to review the modification to be sure it is necessary and reasonable

**Finding 3: PHA Did Not Split Purchases to Avoid
the Competitive Bidding Process [Report at 20]**

The Report asserts that PHA split purchases by issuing small purchase orders in order to “avoid” obtaining products and services through the competitive bidding process. This statement by the OIG is unfair and baseless. There is no evidence to support this allegation. PHA asserts that this entire section of the Report should be removed. To the extent that OIG declines to delete this section, however, PHA alternatively requests that the OIG remove the “avoid” allegation that appears on pages 1, 2 and 20 of the Report. This language is needlessly inflammatory and detracts from the constructive suggestion in this section of the report.

Finally, PHA concurs with the OIG’s finding that the Authority has taken steps has taken several steps designed to increase the efficiency and economy of its purchasing. The Contracting Officer has begun soliciting and awarding contracts on several of the commodities identified in the Report. In addition, PHA anticipates that the PeopleSoft computer program will generate reports that can be used to better plan the purchasing of products and services.

A. Response to OIG Recommendations (Finding 3)

3A. [Report at 23]As stated above, PHA has taken several steps designed to increase the efficiency and economy of its purchasing. The Contracting Officer has begun soliciting and awarding contracts on several of the commodities identified in the Report, and PHA anticipates that the PeopleSoft computer program will result in better planning relative to the purchasing of products and services.

3B. [Report at 23]See response to Recommendation 3A, above.

**Finding 4: PHA Concurrs That Improvements in Contract
Administration Should Minimize Vendor Overpayments [Report at 24]**

As the OIG has recognized, PHA has implemented a new software program (PeopleSoft) which should minimize supply contract payment problems going forward. The OIG also recognized that PHA management has taken certain measures designed to strengthen contract administration procedures.

PHA concurs in the OIG's findings concerning improvements. In addition, PHA notes that the OIG's review has demonstrated that overpayments are not a substantial problem at the Authority, and that when such payments have inadvertently occurred, the amounts paid in excess have generally been recovered.

**A. The OIG Chart Does Not Accurately Reflect Payments Received
[Report at 25]**

The Chart on page 25 does not in all cases accurately reflect PHA's recovery from contractors of overpayments, or otherwise reflect PHA's position on amounts otherwise found to be overpaid/unsupported. Specifically:

Contract Number	Amount Overpaid/Unsupported	PHA Position
1792	\$13,053	Subcontractor performed training. Unclear why still considered overpaid.
1811	\$32,964	Recovered [See Ex. "T".]
1915	\$20,723	\$14,500 originally disallowed as possible double payment. PHA established no double payment was made.
1918	\$3,205	To be recovered from contractor's current invoices.

2274	\$25,976	Documentation attached (See Ex. "J").
2483	\$28,352	Documentation attached (See Ex. "K").
9763	\$224,142 (\$30,792/\$193,400)	Discussed below.

i. Maintenance Supply Contracts [Report at 25]

Overpayments were recovered. The newly installed Peoplesoft system should prevent a reoccurrence.

ii. Legal Contracts [Report at 25]

Overpayments were recovered. The reference to 27 invoices is somewhat misleading in that it appears there were 27 separate submissions when in fact invoices were grouped and submitted together.

iii. Other Contracts [Report at 25]

While this section references six firms being overpaid, the entire discussion deals with Contract 9763 for lead inspection services. It argues the contractor failed to document the hours worked and its hours of work (between 8:00 a.m. and 4:00 p.m.) were so limited by a pre-contract meeting memo.

The statement that the billings contained no support for the hours charged is correct, however, the contractor was not required to provide support for the hours because of the nature of the contract, *i.e.*, an indefinite quantity contract with fixed price task orders. Nothing in the contract required the contractor to provide evidence such as timecards or similar records to establish hours worked. The contractor did have to produce copies of test reports and a final report. While the contractor did list hours worked in its invoice, this was presumably done to support partial payment requests and not as part of any contract deliverable.

PHA does not agree that it had the right, absent a contract modification, or Contracting Officer's direction, to limit the working hours of the contractor in question, and for this reason alone, \$193,400 of the unsupported cost finding should be deleted. Nothing in the Solicitation or resulting contract limited the contractor's working hours. A post-award conference comment, unless from the Contracting Officer, cannot change the contract. If so limited, the contractor would be entitled to any additional costs that would have resulted, such as hiring additional inspectors to work within an eight hour day. The contractor was within its right in working after eight hours, and its incurred costs are not unsupported for that reason alone. The HUD Handbook is very specific on this point:

Any changes to the contract that are necessary as a result of any post-award conference should always be reflected in a formal modification to the contract; otherwise the contractor will be held to the strict wording of the contract, rather than any oral agreement or instructions from HA staff. (7460.8 REV 1, Para. 6-5 (B)(3))

Based on the above, and for the additional reasons provided to the OIG by the Authority, this section of the Report should be deleted in its entirety.

iv. Part V Requirements [Report at 26]

Part V constitutes PHA's own internal billing rules with respect to legal contracts. There is no HUD, federal or state rule or regulation which requires PHA to maintain Part V. As such PHA contends that whether the Authority is in compliance with Part V is a matter for internal review only. Presently, PHA is conducting a review of its Part V program. PHA contends that this section of the Report should be deleted in its entirety.

B. Costs Paid by PHA Were Reasonable and Necessary [Report at 28]

For the reason stated, the identified costs were not unreasonable and/or unnecessary because: (1) they were necessarily incurred and their amounts were the result of

negotiations with the contractor; or (2) otherwise necessary for the proper operation of the Authority and within the discretion of management to order from an outside vendor.

i. Patrol Car Contract [Report at 28]

The OIG's statement is correct. PHA would only add that each modification is the subject of a separate negotiation so its ability to negotiate a favorable rate on one modification does not insure it can negotiate the same or better rate on another modification.

ii. Armed Guards Contract [Report at 28]

It is incorrect to state the \$9.75 rate was the same on the base contract and all modifications except change order 11. In fact, PHA negotiated a rate of \$9.25 on modifications 9, 10, 12, 13, and 14, more than offsetting the \$10.75 rate on change order 11.

iii. Public Relations Contracts [Report at 28]

For the reasons provided to the OIG by the Authority, this section of the Report should be deleted in its entirety.

**C. PHA's New Computer System Addresses OIG's Concerns
[Report at 29]**

The Report describes PHA's new computer system, the PeopleSoft program, but does not fully recognize the importance of the program. PHA is one of only a few housing authorities across the nation that have implemented a full-service program like PeopleSoft, which includes a human resources system, a financial management system, and a procurement system. We believe that the program has already saved PHA several million dollars, and will likely result in savings in the tens of millions. The Report fails to fully recognize the importance of the PeopleSoft system relative to the improved efficiency and operation of the Authority.

**D. PHA Has Adequate Management Controls that Are Continually
Improving [Report at 31]**

PHA disagrees with the OIG's assessment that PHA has numerous significant weaknesses in its management controls. The allegations cited by the OIG in support of its assessment lack merit. In fact, the minor findings set forth in the Report prove otherwise. PHA notes, however, that it is continually striving to improve and modernize its procurement processes, and toward that end the Authority recently implemented the new PeopleSoft computer program.

E. Response to OIG Recommendations (Finding 4)

4A. [Report at 30]PHA's response addresses a substantial portion of the alleged overpayments.

4B. [Report at 30]For the reasons set forth above in PHA's response to Finding 4, PHA vigorously disputes this recommendation, and contends that the repayment of federal funds is unwarranted.

4C. [Report at 30]For the reasons set forth above in PHA's response to Finding 4, PHA vigorously disputes this recommendation, and contends that the repayment of federal funds is unwarranted.

4D. [Report at 30]The Part V requirements are currently under review. The requirements will be updated and improved as necessary.

4E. [Report at 30]PHA will review its current policies and procedures and where necessary, develop and implement a written policy to document and ensure continued compliance with the improvements made by the Authority's Contract Administration department.

4F. [Report at 30]PHA will continue to train its contracting personnel on the Authority's contract administration procedures. In that regard, if necessary, PHA will develop and implement a written policy to document and ensure compliance with such procedures.

4G. [Report at 30]PHA contends that this recommendation is unnecessary and inappropriate given that legal invoices often contain sensitive, confidential and, often times, privileged information. As it has in the past and continues to do, PHA's Office of General Counsel will review all legal invoices and related documents for compliance with Part V requirements.

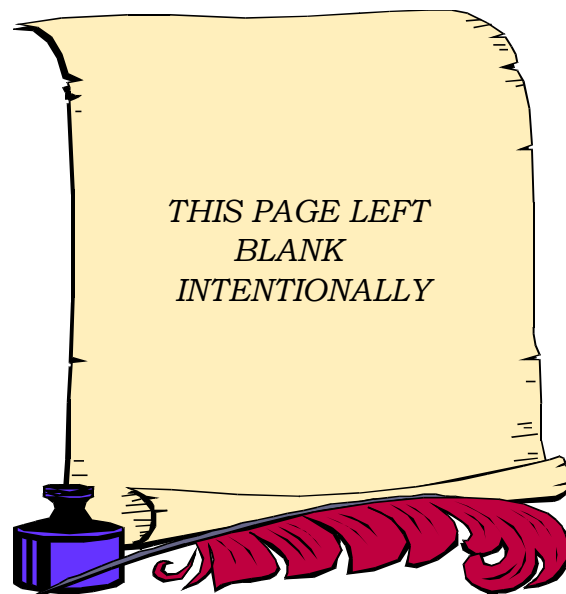
Conclusion

PHA is pleased that after 24 months of Report preparation, the OIG makes the following overall findings relative to the Authority's contracting and purchasing activities:

- Of the \$113 million dollars in contracts, modifications, purchases and payments reviewed, less than one percent (1%) are considered by the OIG to be either ineligible (\$439,577) or unsupported (\$267,531) expenditures.
- For the most part, the Authority solicited, awarded and administered construction contracts in accordance with federal procurement regulations.
- The Authority generally followed proper procurement procedures and ensured expenditures were reasonable and necessary.

As discussed at length herein, PHA is continually striving to improve and modernize its contracting and procurement practices and procedures, and will continue to do so. To that that end PHA recently implemented the new PeopleSoft computer program, which, among other things, will improve the Authority's contracting and procurement functions.

PHA will continue to train its contracting personnel in proper contract award and purchasing procedures. PHA and its contracting personnel will continue to comply with all applicable rules and regulations relative to: (1) solicitation advertisement, (2) cost estimates, (3) contract amendments and modifications and (4) options.



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